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सं. 42] नई दिल्ली, अक्टूबर 9-अक्टूबर 15, 2011, शनिवार/आश्विन 17-आश्विन 23, 1933
No. 42] NEW DELHI, OCTOBER 9-OCTOBER 15, 2011, SATURDAY/ASVINA 17-ASVINA 23, 1933

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

शुद्धि-पत्र

नई दिल्ली, 10 अक्टूबर, 2011

का.आ. 2846.—इस विभाग की अधिसूचना संख्या 228/64/2011-ए.वी.डी.-II दिनांक 29-9-2011 के हिन्दी रूपांतर की पांचवी पंक्ति में दृष्टिगोचर शब्द "16 सितम्बर, 2011" को "15 सितम्बर, 2011" पढ़ा जाए और छठी पंक्ति में दृष्टिगोचर वाक्य "श्रीमती भंवरी देवी धर्मपत्नी श्री अमर चन्द के कथित अपहरण के संबंध में" को हटा दिया जाए।

[फा. सं. 228/64/2011-ए.वी.डी.-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

CORRIGENDUM

New Delhi, the 10th October, 2011

S.O. 2846.—In this Department's notification No. 228/64/2011-AVD-II dated 29-9-2011, in Hindi version,

3708 GI/2011

(7423)

the words "16 September, 2011" in 5th line may be read as "15th September, 2011" and the sentence in the 6th line "Smt. Bhanwari Devi dharampatni Shri Amar Chand ke kathit apharan ke sambandh main" may be deleted.

[F. No. 228/64/2011-AVD-II]

RAJIV JAIN, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 7 अक्टूबर, 2011

का. आ. 2847.—भारतीय रिजर्व बैंक अधिनियम, 1934, (1934 का 2) की धारा 8 की उप-धारा (1) के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री यजदी हिरजी मालेगम को उनकी नियुक्ति की अधिसूचना की तिथि से चार वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, श्री होमी फिरोज रानीना के स्थान पर भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में निदेशक के रूप में नामित करती है।

[फा. सं. 1/1/2010 बीओ 1]

विजय मल्होत्रा, अवर सचिव (बीओ 1)

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 7th October, 2011

S.O. 2847.—In exercise of the powers conferred by clause (c) of Sub-section (1) of Section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby nominates Shri Yezdi Hirji Malegam to be the Director of the Central Board of Reserve Bank of India for a period of four years from the date of notification of his appointment or until further orders, whichever is earlier vice Shri Homi Phiroze Ranina.

[F. No. 1/1/2010-BO-I]

VIJAY MALHOTRA, Under Secy. (BO-I)

नई दिल्ली, 7 अक्टूबर, 2011

का. आ. 2848.—जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार श्री अमरदीप सिंह चीमा, को अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, जीवन बीमा निगम के निदेशक मंडल में गैर-सरकारी सदस्य के रूप में नियुक्त करती है।

[फा. सं. ए-15011/01/2007-बीमा-III]

एस. के. मोहन्ती, अवर सचिव

New Delhi, the 7th October, 2011

S.O. 2848.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956), the Central Government hereby appoints Shri Amardeep Singh Cheema as Non-Official Member on the Board of the Life Insurance Corporation of India for a period of three years from the date of Notification or until further orders, whichever is earlier.

[F. No. A-15011/01/2007-Ins.-III]

S. K. MOHANTY, Under Secy.

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 10 अक्टूबर, 2011

का.आ. 2849.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ कर निर्धारण वर्ष 2011-2012 से आगे इंडियन इन्स्टीट्यूट ऑफ टेक्नोलॉजी राजस्थान, जोधपुर को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगे 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, अर्थात् :-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा;

(iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग खाता बही रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से ऐसी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा;

(iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केंद्र सरकार यह अनुमोदन वापस ले लेगी यदि अनुमोदित संगठन:-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त दान एवं प्रयुक्त धनराशि का विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 55/2011/फा.सं. 203/4/2011-आ.क.नि.-II]
आर. के. गुप्ता, अवर सचिव (आ.क.नि.-II)

(Department of Revenue)
(Central Board of Direct Taxes)

New Delhi, the 10th October, 2011

S.O. 2849.—It is hereby notified for general information that the organization Indian Institute of Technology Rajasthan, Jodhpur has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), from assessment year 2011-12 and onwards in the category of 'Other Institution', engaged in research activities subject to the following conditions,

amely: —

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:-

- (a) fails to maintain separate books of accounts referred to in paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 55/2011/F. No. 203/4/2011/ITA-II]

R. K. GUPTA, Under Secy. (ITA-II)

सूचना एवं प्रसारण मंत्रालय

नई दिल्ली, 19 अगस्त, 2011

का.आ. 2850.—इस मंत्रालय की दिनांक 10 दिसम्बर, 2009 की समसंख्यक अधिसूचना के अनुक्रम में तथा चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 के साथ पठित चलचित्र

अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा श्री ए.एस.टी. जयारामन को तत्काल प्रभाव से केंद्रीय फिल्म प्रमाणन बोर्ड के चेन्नै सलाहकारी पैनल से बर्खास्त करती है।

[फा. सं. 806/1/2011-एफ (सी)]

के. रामाकृष्णन, उप-सचिव (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 19th August, 2011

S.O. 2850.—In continuation of this Ministry's Notification of even number dated 10th December, 2009 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government hereby removes Shri A. S. T. Jayaraman from the Chennai advisory panel of the Central Board of Film Certification with immediate effect.

[F.No. 806/1/2011-F (C)]

K. RAMAKRISHNAN, Dy. Secy. (Films)

नई दिल्ली, 29 सितम्बर, 2011

का.आ. 2851.—राष्ट्रपति, श्री अमिताभ शर्मा को इस मंत्रालय के दिनांक 18-8-2011 के आदेश सं. 801/2/2008-एफ(सी) के तहत सहायक क्षेत्रीय अधिकारी, केंद्रीय फिल्म प्रमाणन बोर्ड के पद से उनकी पदोन्नति होने पर उन्हें केंद्रीय फिल्म प्रमाणन बोर्ड, कोलकाता में अपर क्षेत्रीय अधिकारी (पे बैंड-3 : 15600-39100 रु. और ग्रेड पे 6600 रु.) के रूप में नियुक्त करती है। उन्होंने दिनांक 23-8-2011 (पूर्वाह्न) से केंद्रीय फिल्म प्रमाणन बोर्ड, कोलकाता में अपर क्षेत्रीय अधिकारी का पदभार ग्रहण कर लिया है।

[फा. सं. 801/2/2008-एफ (सी)]

के. रामाकृष्णन, उप-सचिव (फिल्म)

New Delhi, the 29th September, 2011

S.O. 2851.—The president is pleased to appoint Shri Amitabh Sharma as Additional Regional Officer [Pay Band-3 : Rs. 15600—39100 and Grade Pay Rs. 6600] in Central Board of Film Certification, Kolkata on his promotion from the post of Assistant Regional Officer, CBFC vide Ministry's order No. 801/2/2008-F(C) dated 18-8-2011. He has assumed the charge of Additional Regional Officer, Central Board of Film Certification, Kolkata w.e.f. 23-8-2011 (P.N).

[F.No. 801/2/2008-F(C)]

K. RAMAKRISHNAN, Dy. Secy. (Films)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

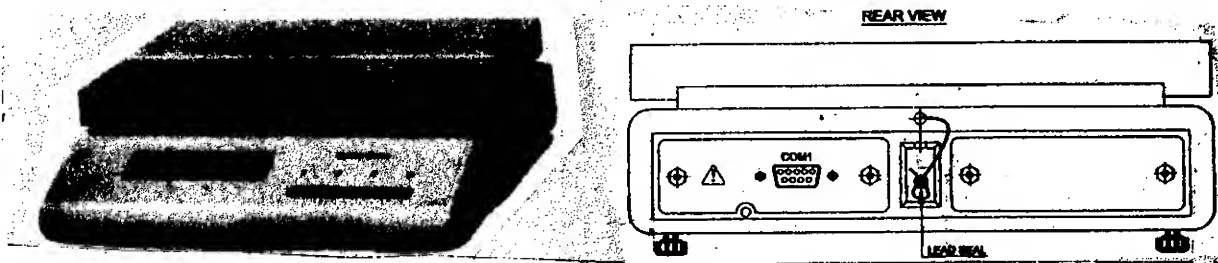
(उपभोक्ता मामले विभाग)

नई दिल्ली, 12 जुलाई, 2011

का.आ. 2852.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स मेटलर-टोलेडो ए जी, इम लांचवेर, 8606, ग्रीफेंसी, स्विटजरलैंड द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "एम एल" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "मेटलर टोलेडो" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) जिसे भारत में मैसर्स मेटलर टोलेडो इंडिया प्राइवेट लि., अमर हिल्स, साकी विहार रोड, पोवई, मुंबई-400072, महाराष्ट्र द्वारा विपणीत किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/09/532 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण है (टेबलटाप टाइप) है। इसकी अधिकतम क्षमता 4200 ग्रा. और न्यूनतम क्षमता 5 ग्रा. है और सत्यापन मापमान अंतराल (ई) 100 मि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। लिक्विड क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2—मॉडल के इंडिकेटर को सीलिंग करने का प्रावधान

वेइंग मशीन को कपटपूर्ण व्यवहार के लिए खोले जाने से रोकने के लिए सीलिंग की जाती है। स्केल की बॉडी के पीछे डिल किए गए होल्स में से सीलिंग वायर निकाल कर स्ट्यामिंग प्लेट को जोड़ा गया है और स्ट्यामिंग के लिए लीड सील लगायी गई है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ और $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(309)/2009]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 12th July, 2011

S.O. 2852.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of High Accuracy (Accuracy Class-II) of series "ML" and with brand name "METTLER TOLEDO" (hereinafter referred to as the said model), manufactured by M/s. Mettler Toledo, AG Im Langacher, 8606, Greifensee, Switzerland and marketed in India by M/s. Mettler Toledo India Pvt. Ltd., Amar Hills, Saki Vihar Road, Powai, Mumbai-400072 which is assigned the approval mark IND/09/09/532;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 4200g and minimum capacity of 5g. The verification scale interval (e) is 100mg. It has a tare device with a 100 per cent subtractive retain tare effect. The liquid crystal diode (LCD) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

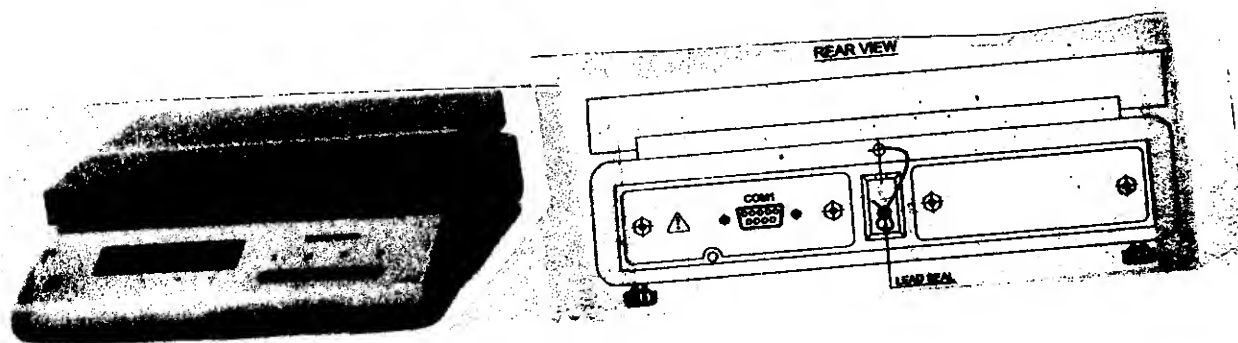


Figure-2—Schematic diagram of sealing provision of the model

Sealing shall be done to prevent opening of the weighing machine, for fraudulent practice. Stamping plate is connected through sealing wire passing from the holes drilled to the rear body of the scale with the lead seal, to get the stamping. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity up to 50 kg and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50 mg and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value 1×10^k , 2×10^k , or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[F. No.WM-21(309)/2009]

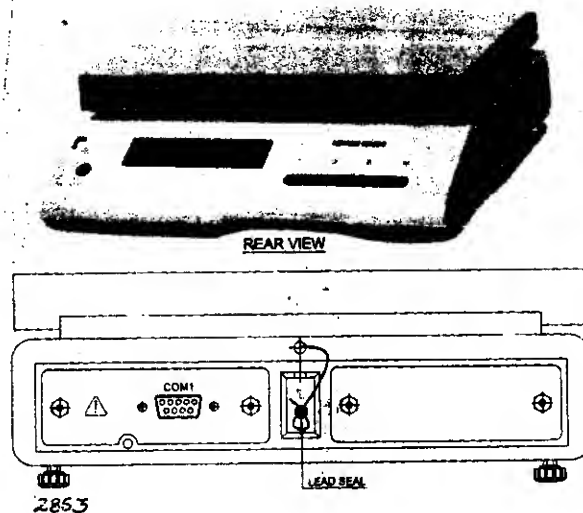
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 12 जुलाई, 2011

का.आ. 2853.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा शक्तियों का प्रयोग करते हुए मैसर्स मेटलर-टोलेडो ए जी, इम लांचवेर, 8606, ग्रीफेंसी, स्विटजरलैंड द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "एम एस" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम "मेटलर टोलेडो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) जिसे भारत में मैसर्स मेटलर टोलेडो इंडिया प्राइवेट लि., अमर हिल्स, साकी विहार रोड, पोवई, मुंबई-400072, महाराष्ट्र द्वारा विपणीत किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/09/531 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप टाइप) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है और सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। लिक्विड क्रिस्टल डायोड (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2—मॉडल के इंडिकेटर को सीलिंग करने का प्रावधान

वेइंग मशीन को कपटपूर्ण व्यवहार के लिए खोले जाने से रोकने के लिए सीलिंग की जाती है। स्केल की बाँड़ी के पीछे ड्रिल किए गए होल्स में से सीलिंग वायर निकाल कर स्ट्याम्पिंग प्लेट को जोड़ा गया है और स्ट्याम्पिंग के लिए लीड सील लगायी गई है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(309)/2009]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th July, 2011

S.O. 2853.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of High Accuracy (Accuracy Class-II) of series "MS" and with brand name "METTLER TOLEDO" (hereinafter referred to as the said model), manufactured by M/s. Mettler Toledo, AG Im Langacher, 8606, Greifensee, Switzerland and marketed in India by M/s. Mettler Toledo India Pvt. Ltd., Amar Hills, Saki Vihar Road, Powai, Mumbai-400072 which is assigned the approval mark IND/09/09/531;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal diodes (LCD) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

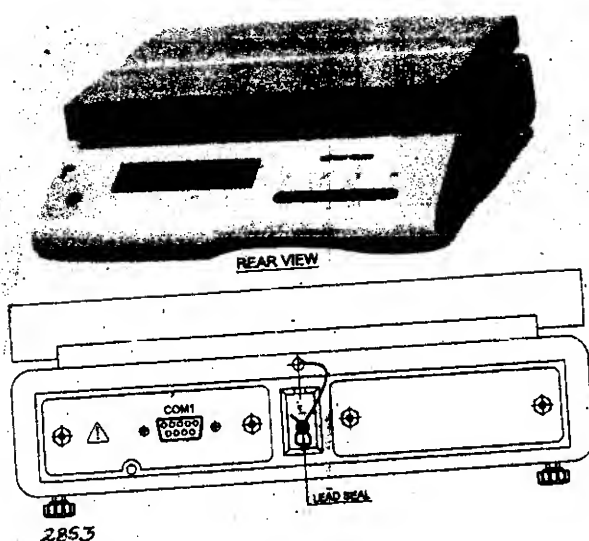


Figure-2—Schematic diagram of sealing provision of the model

Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. Stamping plate is connected through sealing wire passing from the holes drilled to the rear body of the scale with the lead seal, to get the stamping. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity up to 50 kg and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1 mg to 50 mg and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[E.No.WM-21(309)/2009]

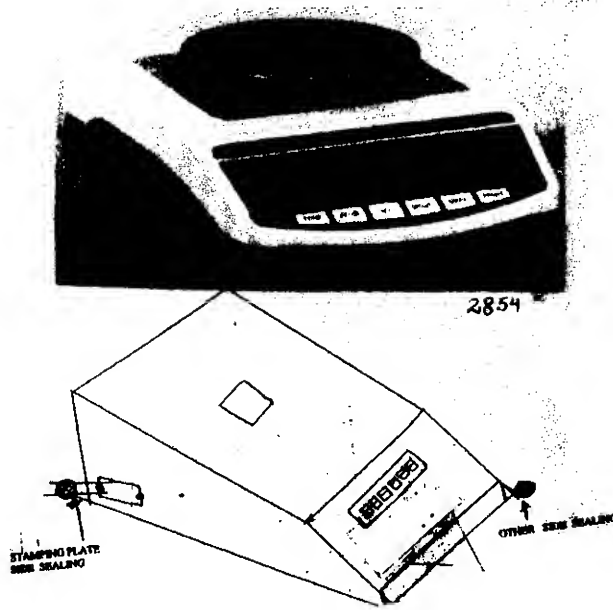
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 12 जुलाई, 2011

का.आ. 2854.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रिजोल्ट वेमेशन प्रा. लि., ए-1-2, बेसमेंट, पोस्ट ऑफिस सुवर्धा फ्लैट को-आप. हाउसिंग सोसायटी लि. के पीछे, जैन डरेसर लाइन के पास, नवरंगपुरा, अहमदाबाद द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "आरईटी-3" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटॉप टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "रिजोल्ट" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/392 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण है (टेबलटॉप टाइप) है। इसकी अधिकतम क्षमता 300 ग्रा. और न्यूनतम क्षमता 0.2 ग्रा. है। सत्यापन मापमान अंतराल (ई) 0.01 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

कपटपूर्ण व्यवहारों से वेइंग मशीन को खोले जाने से सीलिंग की जाती है। स्टाम्पिंग के लिए स्केल की बाडी में से लीड सील के साथ सीलिंग वायर निकालकर स्टाम्पिंग प्लेट जोड़ी गई है। मॉडल को सीलिंग प्रावधान का स्कीमवार डायग्राम ऊपर दिया गया है।

उपकरण में केलिब्रेशन के लिए बाहरी पहुंच है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो। मि.ग्रा. से 50 मि.ग्रा तक के "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^{\circ}$, $2 \times 10^{\circ}$, $5 \times 10^{\circ}$, हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(220)/2009]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th July, 2011

S.O. 2854.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of High Accuracy (Accuracy Class-II) of series "REZ-3" and with brand name "REZOLUT" (hereinafter referred to as the said model), manufactured by M/s Rezolut Weighmaton Pvt. Ltd. A-1-2, Basement, B/h, Post Office Suvardha Flats Co-op. Housing Society Ltd. Nr Jain Derasar Lane, Navrangpura, Ahmedabad which is assigned the approval mark IND/09/09/392;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 300g and minimum capacity of 0.2g. The verification scale interval (e) is 0.01g. It has a tare device with a 100 percent sustained tare effect. The Light Emitting Diode (LED) Display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

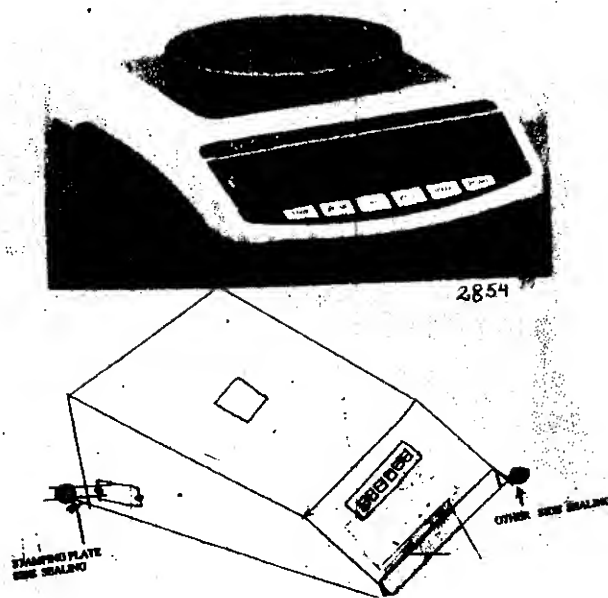


Figure-2 Schematic diagram of the sealing provision of the model.

Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. Stamping plate is connected through sealing wire passing from the body of scale with the lead seal, to get the stamping. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make and performance of same series with maximum capacity up to 50kg with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the approved Model has been manufactured.

[F.No.WM-21(220)/2009]

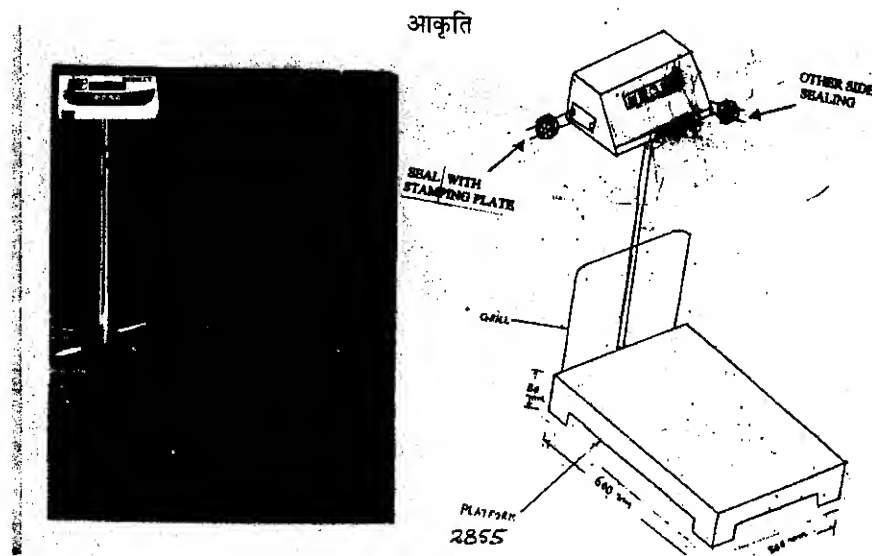
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 12 जुलाई, 2011

का.आ. 2855.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रिजोल्ट वेमेशन प्रा. लि., ए-1-2, बेसमेंट, पोस्ट ऑफिस सुवर्धा प्लेट को-आप. हाउसिंग सोसायटी लि. के पीछे, जैन डरेसर लाइन के पास, नवरंगपुरा, अहमदाबाद द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "आरईपीएफ-7" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "रिजोल्ट" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/393 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदत्त तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रात्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

कपटपूर्ण व्यवहारों से वेइंग मशीन को खोले जाने से सीलिंग की जाती है। स्टाम्पिंग के लिए स्केल की बाडी में से लीड सील के साथ सीलिंग वायर निकालकर स्टाम्पिंग प्लेट जोड़ी गई है। मॉडल के सीलिंग प्रावधान का स्कीमवार डायग्राम उपर दिया गया है।

उपकरण में केलिब्रेशन के लिए बाहरी पहुंच है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम् 21(220)/2009]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

37086/11-23

New Delhi, the 12th July, 2011

S.O. 2855.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium Accuracy (Accuracy Class-III) of series "RE:PF-7" and with brand name "REZOLUT" (hereinafter referred to as the said model), manufactured by M/s Rezolut Weighmation Pvt. Ltd. A-1-2, Basement, B/h, Post Office Suvadha Flats Co-op. Housing Society Ltd. Nr Jain Derasar Lane, Navrangpura, Ahmedabad which is assigned the approval mark IND/09/09/393;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts, 50Hertz alternative current power supply.

Figure-1 Model

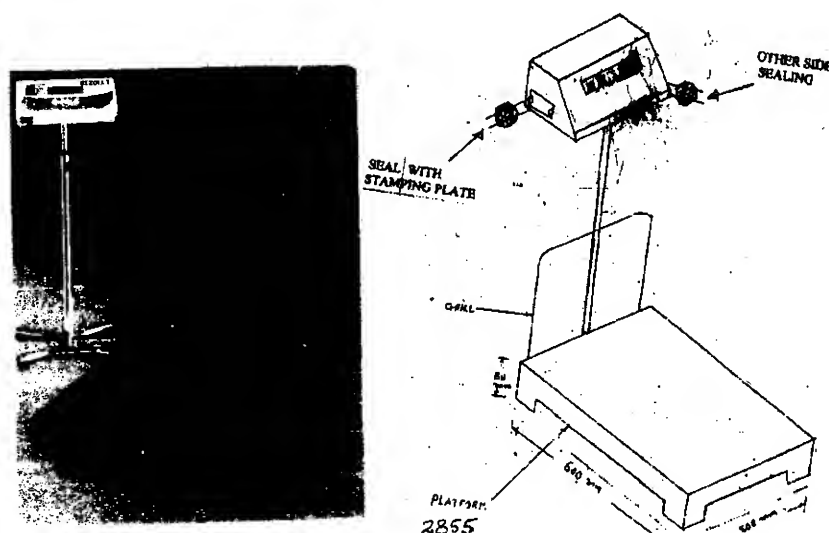


Figure-2 Sealing provision of the indicator of model

Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. Stamping plate is connected through sealing wire passing from the body of scale with the lead seal, to get the stamping. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg up to 5000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(220)/2009]

B. N. DIXIT, Director of Legal Metrology

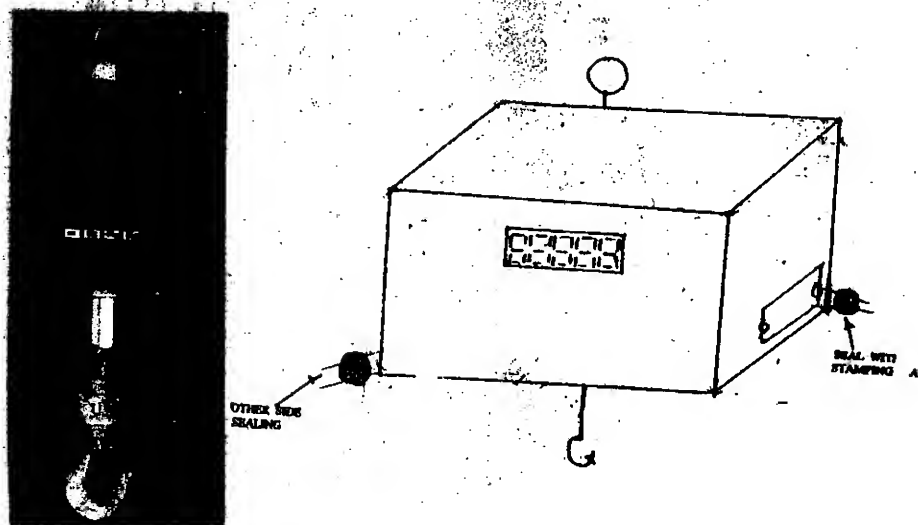
नई दिल्ली, 12 जुलाई, 2011

का.आ. 2856.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रिजोल्ट वेमेशन प्रा. लि., ए-1-2, बेसमेंट, पोस्ट ऑफिस सुवर्धा प्लेट को-आप. हाउसिंग सोसायटी लि. के पीछे, जैन डरेसर लाइन के पास, नवरंगपुरा, अहमदाबाद द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "आरसीएस-7" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (क्रैन टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "रिजोल्ट" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/395 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण है (क्रैन टाइप) है। इसकी अधिकतम क्षमता 10 टन और न्यूनतम क्षमता 40 कि.ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

कपटपूर्ण व्यवहारों से वेइंग मशीन को खोले जाने से सीलिंग की जाती है। स्टाम्पिंग के लिए स्केल की बाडी में से लीड सील के साथ सीलिंग वायर निकाल कर स्टाम्पिंग प्लेट जोड़ी गई है। मॉडल के सीलबंद प्रावधान का स्कीमवार डायग्राम उपर दिया गया है।

उपकरण में केलिब्रेशन के लिए बाहरी पहुंच है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 50 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(220)/2009]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th July, 2011

S.O. 2856.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Crane type) with digital indication of medium Accuracy (Accuracy Class-III) of series "RCS-7" and with brand name "REZOLUT" (hereinafter referred to as the said model), manufactured by M/s. Rezolut Weighmaton Pvt. Ltd. A-1-2, Basement, B/h, Post Office Suvardha Flats Co-op. Housing Society Ltd. Nr Jain Derasar Lane, Navrangpura, Ahmedabad and which is assigned the approval mark IND/09/09/395;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Crane type) with a maximum capacity of 10 tonne and minimum capacity of 40kg. The verification scale interval (e) is 2kg. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230V olts, 50Hertz alternative current power supply.

Figure-1 Model

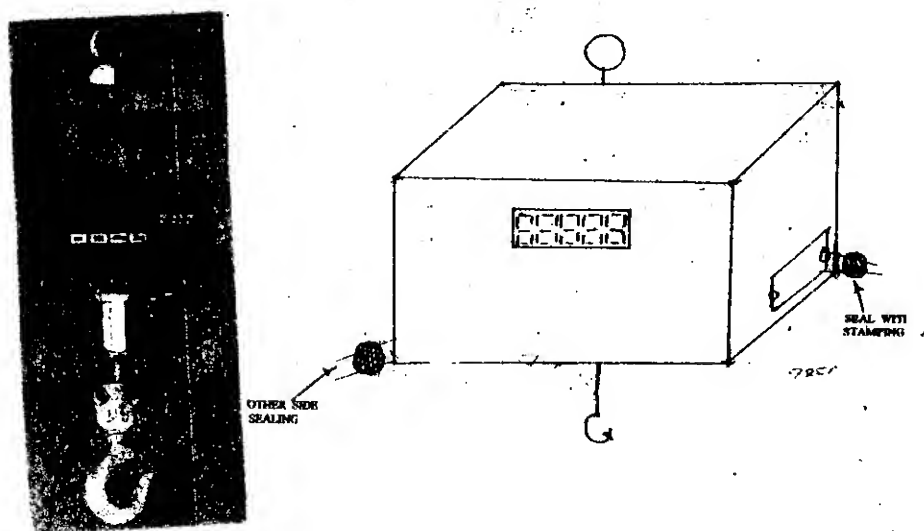


Figure-2 sealing arrangement

Sealing shall be done to prevent opening of the weighing machine for fraudulent practice. Stamping plate is connected through sealing wire passing from the body of scale with the lead seal, to get the stamping. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 50 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(220)/2009]

B. N. DIXIT, Director of Legal Metrology

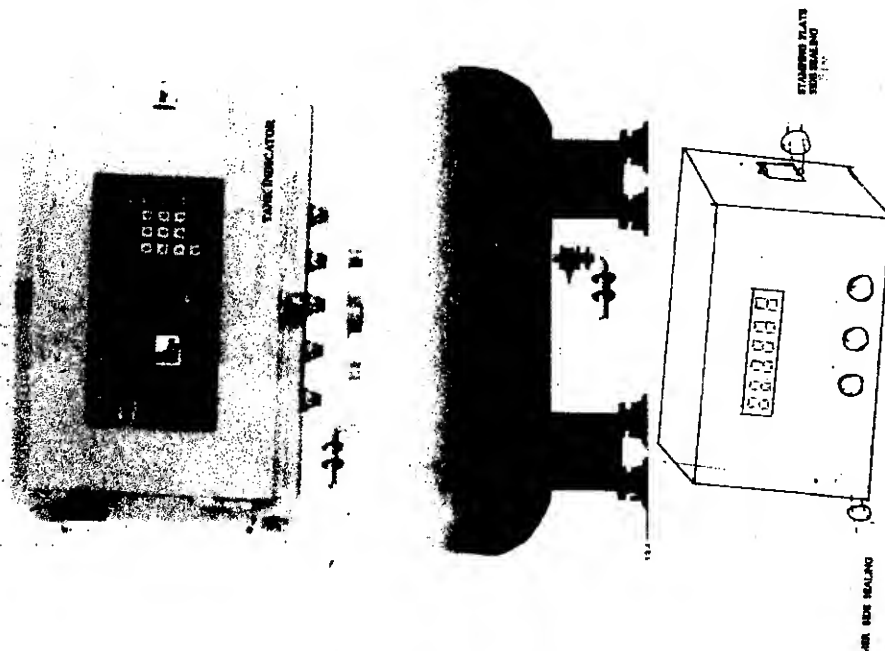
नई दिल्ली, 12 जुलाई, 2011

का.आ. 2857.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स रेजोलॉट वेमेशन प्रा. लि., ए-1-2, बेसमेंट, पोस्ट ऑफिस के पीछे सुवर्धा को-आप. हाउसिंग सोसायटी लि., जैन इंडेसर, नवरंगपुरा, अहमदाबाद द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "आरईटी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टैंक वेइंग टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "आरईजैडओएलयूटी" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/09/394 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टैंक वेइंग टाइप) है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 200 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 10 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति



आकृति -2 मॉडल के इंडिकेटर को सीलिंग करने का प्रावधान

प्राधिकारी द्वारा स्टाम्पिंग और सत्यापन के बाद इंडिकेटर में दिए गए छेदों में से लीडिड वायर निकाल कर सीलिंग की जाती है। सील से छेड़छाड़ किए बिना उपकरण को खोला नहीं जा सकता। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(220)/2009]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th July, 2011

S.O. 2857.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument with flameproof indicator (Tank Weighing type) with digital indication of medium Accuracy (Accuracy Class-III) of series "RET" and with brand name "REZOLUT" (hereinafter referred to as the said Model), manufactured by M's. Rezolut Weighment Pvt. Ltd. A-1-2, Basement, B/h, Post Office Suvardha Flats Co-op. Housing Society Ltd. Nr. Jain Derasar Lane, Navrangpura, Ahmedabad and which is assigned the approval mark IND/09/09/394:

The said model is a strain gauge type load cell based non-automatic weighing instrument with flameproof indicator (Tank Weighing type) with a maximum capacity of 30 tonne and minimum capacity of 200kg. The verification scale interval (e) is 10kg. It has a tare device with a 100 percent substrate retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230V olts, 50Hertz alternative current power supply.

Figure-1 Model

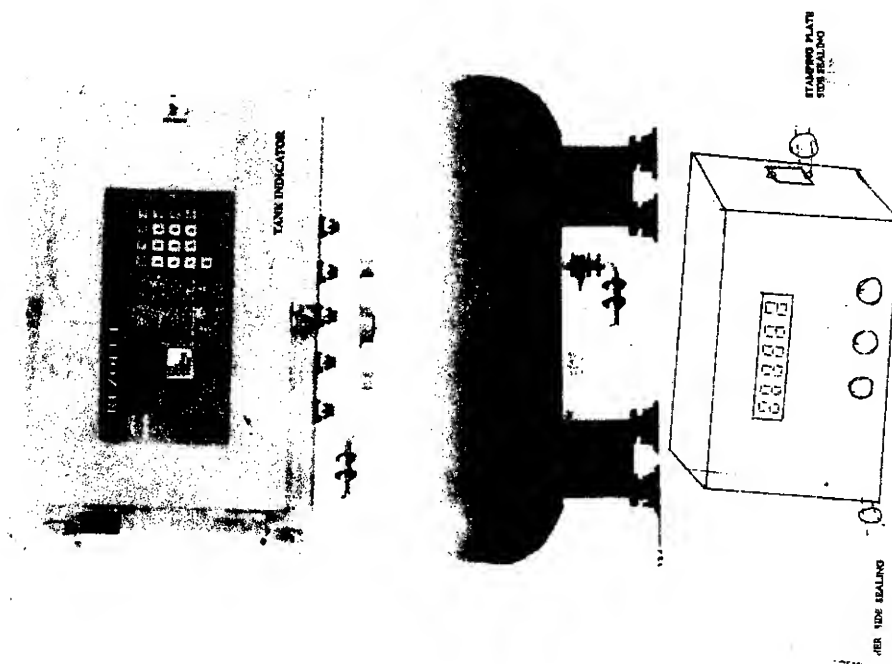


Figure-2 Sealing diagram of the sealing provision of the model

The sealing is done by passing a leaded wire through the holes made in the indicator after verification and stamping by the authorities. The instrument can not be opened without tampering the seal. A typical schematic diagram of sealing provision of the model is given above.

Further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacities in the range of 5tonne to 100tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[E.No.WM-21(220) 2009]

B. N. DIXIT, Director of Legal Metrology

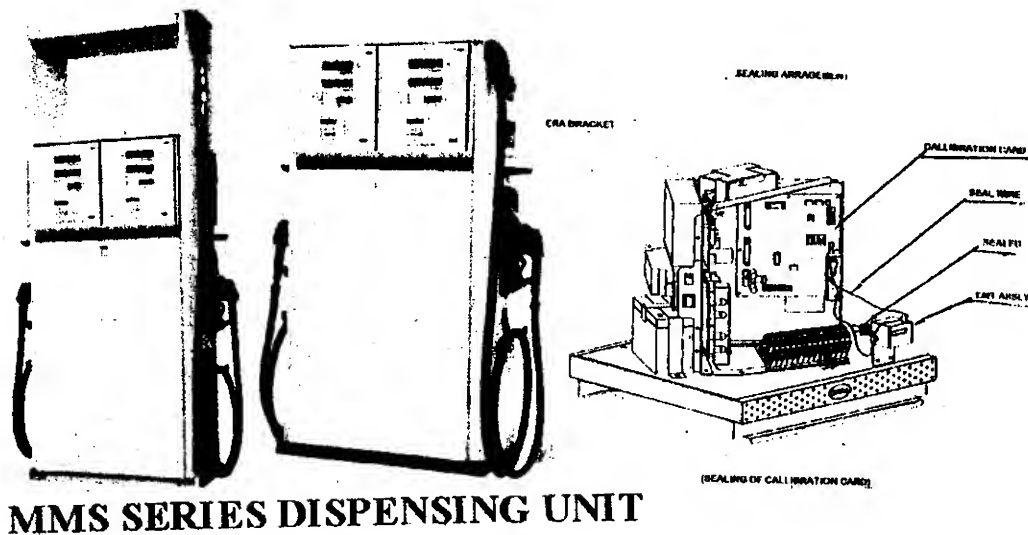
नई दिल्ली, 15 जुलाई, 2011

का.आ. 2858.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (3) और उप-धारा (7) और उप-धारा (8) के तीसरे परन्तुक द्वारा शक्तियों का प्रयोग करते हुए मैसर्स मिडको लिमिटेड, मेट्रो एस्टेट, विद्यानगर मार्ग, कलिना सांताक्रुज (ईस्ट), मुंबई-400098 द्वारा विनिर्मित यथार्थता वर्ग 0.5 वाले “एमएमएस” शृंखला के “पानी के अलावा अन्य द्रव्यों हेतु मीटर” (फ्यूल डिस्पेंसर) अंकक सूचन सहित जिसके ब्राण्ड का नाम “मिडको एमएमएस सीरिज” (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) के मॉडल और जिसे अनुमोदन चिह्न आई एन डी/09/11/109 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है;

उक्त मॉडल पानी के अलावा अन्य द्रव्यों हेतु मीटर (फ्यूल डिस्पेंसर) है जो पोजीटिव डिस्पलेसमेंट मीटर के सिद्धांत पर कार्य करता है। इसकी अधिकतम फ्लो दर 80 लीटर प्रति मिनट और मापमान अंतराल 10 मि.ली. है। इसमें मूल्य रूप में 7 अंक सूचन के लिए, 6 अंक वाल्यूम सूचन के लिए, 6 अंक फ्यूल रेट के लिए, 6 अंक घनत्व के लिए और प्रतिवर्ती इलेक्ट्रॉनिक/इलेक्ट्रोमैकेनिकल टोटलाइजर के लिए न्यूनतम 7 अंक हैं। उपकरण 230 वोल्ट, 50 हर्ट्ज सिंगल फेस, 50 हर्ट्ज 3 फेज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है। इसमें बहुप्रकार के ईंधन जैसे कि पेट्रोल, केरोसीन इत्यादि के वितरण करने की क्षमता है। इसमें सूचन एल सी डी प्रकार का है। आटोमेशन प्रोटोकाल को सुकर बनाने के लिए मॉडल में आर एस 485 पोर्ट है।

आकृति

**MMS SERIES DISPENSING UNIT**

आकृति 2 - सीलिंग प्रावधान

उक्त माडल केवल इलेक्ट्रॉनिक कैलिब्रेशन का होता है। इलेक्ट्रॉनिक कैलिब्रेशन डिप स्विच फैब्रीकेटिड कवर से कवर्ड किया गया है और सिंगल वायर से सील किया गया है।

[फा. सं. डब्ल्यू एम 21(14)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 15th July, 2011

S.O. 2858.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority along with the Model approval certificate issued by the NMI Netherland, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the third provis to sub-section (3) and sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby approves issues and publishes the certificate of approval of the model of Measuring System For Liquids Other Than Water (Fuel Dispenser) with digital indication of accuracy class 0.5 (hereinafter referred to as the said model), of series "MMS" with brand name "MIDCO MMS SERIES". manufactured by M/s. Midco Limited, Metro Estate, Vidhyanagar Marg, Kalina Santacruz (East), Mumbai-400098 and which is assigned the approval mark IND/09/109/;

The said model is a Meter for Liquid other than Water (Fuel Dispenser) working on the principle of positive displacement meter. Its maximum flow rate range is 80 lpm. Its scale interval is 10ml. It has indication upto 7 digits for Price in Rupees, 6 digits for Volume indication, 6 digits for fuel rate, 6 digits for density, and non reversible electronic/ electromechanical totaliser of minimum 7 digits. It operates on 230V, 50 Hertz single phase, 50 hertz 3 phase alternate current power supply, It is capable of dispensing multiple variety of fuel that is Petrol, Diesel, Kerosene etc. The indication is of LCD type. The model has Rs. 485 port of facilitate automation protocol.

Figure-1 Model

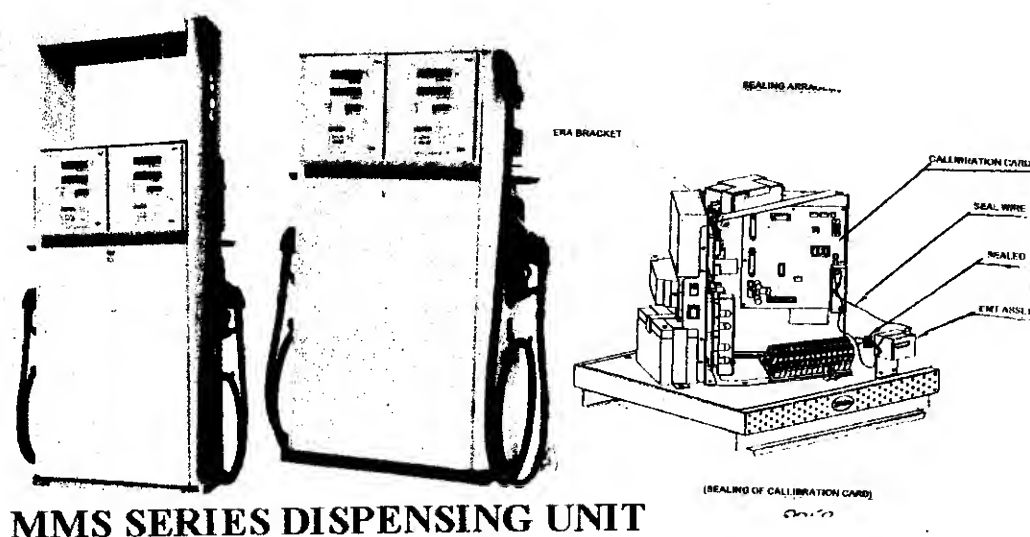


Figure 2-Sealing arrangement

The said model has electronic calibration only. Electronic calibration dip switch is covered by a fabricated cover and sealed by single wire.

[E.No. WM-21(14)/2011]

B. N. DIXIT, Director of Legal Metrology

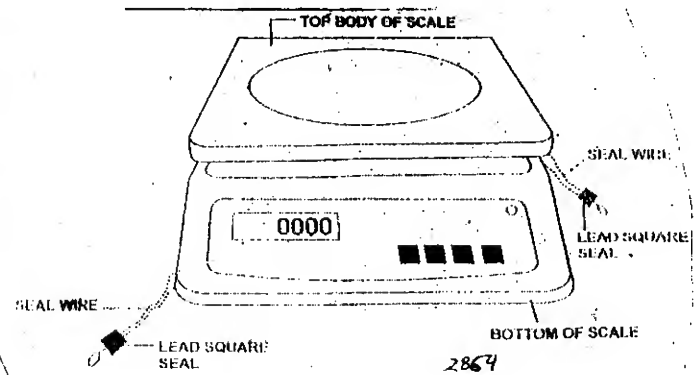
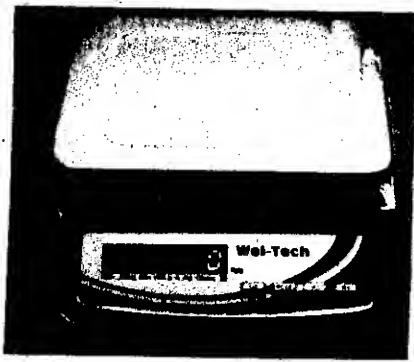
नई दिल्ली, 12 अगस्त, 2011

का.आ. 2859.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेल-टेक वेइंग सिस्टम, 85, सारथी बंगला, राधे टेनामेंट के पास, हरी दर्शन चौकाडी, काठवाडा रोड, नया नरोदा, अहमदाबाद-30 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'डब्ल्यूडब्ल्यूएस-टीटी' शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "वेल-टेक" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/172 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है :

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। जिसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रात्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति -1



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$ के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(93)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

370863/11- 3B

New Delhi, the 12th August, 2011

S.O. 2859.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of Medium Accuracy (Accurac Class-III) of series "WWS-TT" and with brand name "WEL-TECH" (hereinafter referred to as the said model), manufactured by M/s. Wel-Tech Weighing Systems, 85, Sarthi Bungalows, Nr. Radhe Tenament, Hari Darshan Chokadi, Kathvada Road, Nava Naroda, Ahmedabad-30 and which is assigned the approval mark IND/09/11/172;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. g. and minimum capacity of 100 g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) / display indicates the weighing result. The instrument operates on 230 Volts, 50Hertz alternative current power supply.

Figure-1 Model

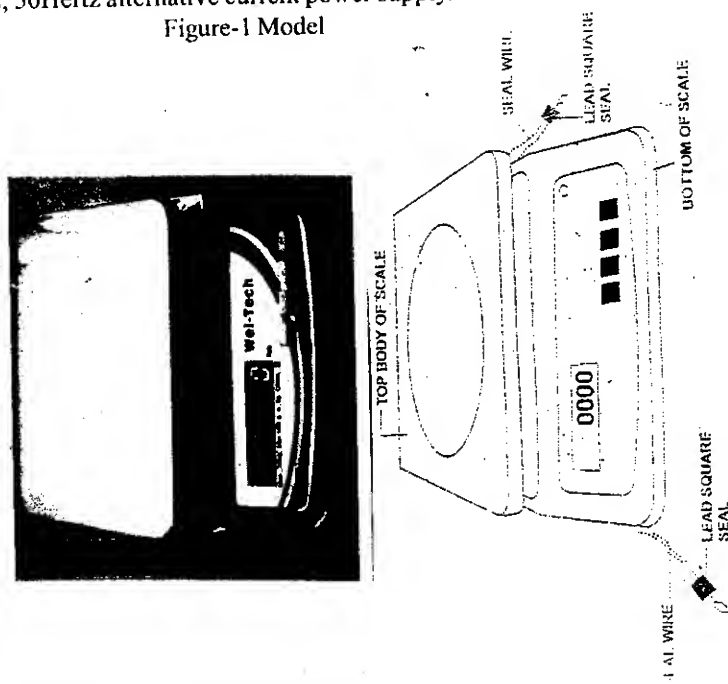


Figure-2 Schematic Diagram of the sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(93) 2011]

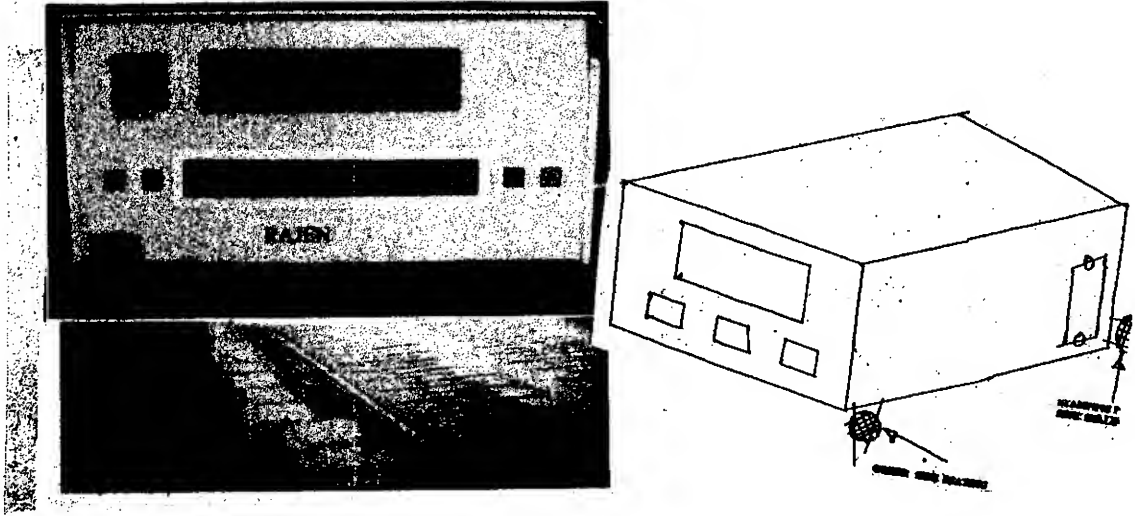
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 12 अगस्त, 2011

का.आ. 2860.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स राजन स्केल ट्रेडर्स, जवाहर गेट, अमरावती, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “आरएसटी डब्ल्यूबी” 30टी-शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलेक्ट्रानिक वेब्रिज टाईप) के मॉडल का, जिसके ब्राण्ड का नाम “राजन” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/40 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रानिक वेब्रिज टाईप) है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



आकृति-2—मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाडी में से सीलिंग वायर निकालकर डिस्पले के राइट साइड/बैक साइड में सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 150 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^3 , 2×10^3 या 5×10^3 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(28)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2011

S.O. 2860.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Electronic Weighbridge) with digital indication of medium Accuracy (Accuracy Class-III) of Series "RSTWB-30T" and with brand name "RAJAN" (hereinafter referred to as the said Model), manufactured by M/s. Rajen Scale Traders, Jawahar Gate, Amrawati, Maharashtra and which is assigned the approval mark IND/09/11/40;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Electronic Weighbridge) with a maximum capacity of 30 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1

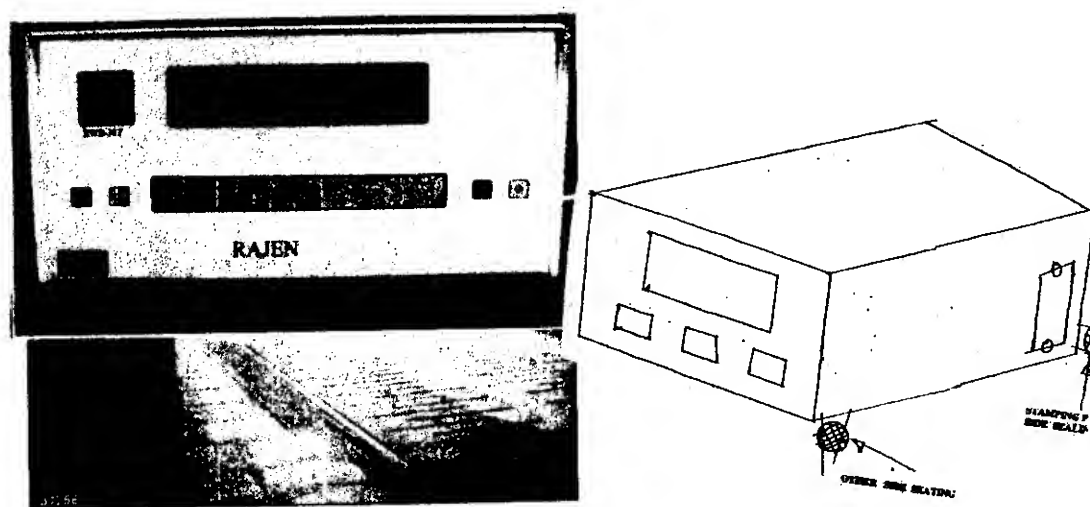


Figure-2—Schematic Diagram of the sealing provision of the model.

Sealing is done on the right side/back side of the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and upto 150 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or above and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F.No.WM-21 (28)/2011]

B. N. DIXIT, Director of Legal Metrology

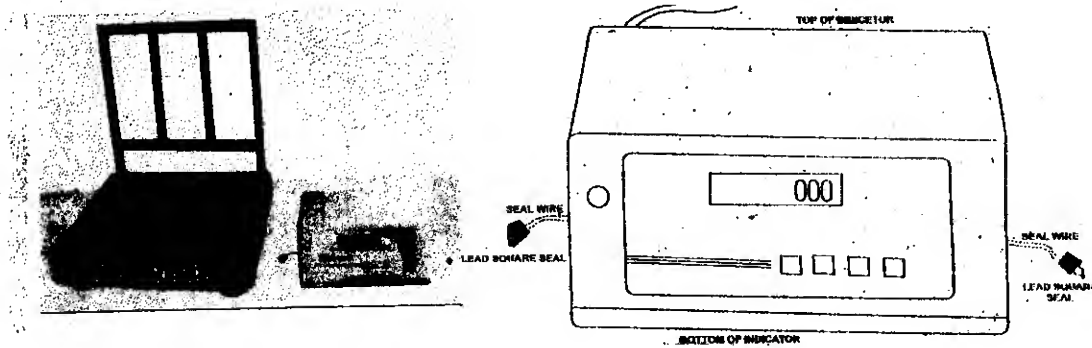
नई दिल्ली, 12 अगस्त, 2011

का.आ. 2861.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4), द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेल-टैक वेइंग सिस्टम, 85, सारथी बंगला, राधे टेनामेंट के पास, हरी दर्शन चौकडी, काठवाडा रोड, नया नरोदा, अहमदाबाद-30 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'डब्ल्यूडब्ल्यूएस-पीएफ' शृंखला के अंकक सूचन अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "वेल-टैक" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/173 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 300 कि. ग्रा. और न्यूनतम क्षमता 1000 ग्रा. है। सत्यापन मापमान अन्तराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति - 1



आकृति-2—मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाडी में से सीलिंग वायर निकालकर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकालकर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-3} , 2×10^{-3} या 5×10^{-3} के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(93)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2011

S.O. 2861.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of Medium Accuracy (Accuracy class-III) of series "WWS-PF" and with brand name "WEL-TECH" (hereinafter referred to as the said model), manufactured by M/s Wel-Tech Weighing Systems, 85, Sarthi Bungalows, Nr. Radhe Tenament, Hari Darshan Chokadi, Kathvada Road, Nava Naroda, Ahmedabad-30 and which is assigned the approval mark IND/09/11/173;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 300kg and minimum capacity of 1000g. The verification scale interval (e) is 50g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED)/display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1 Model

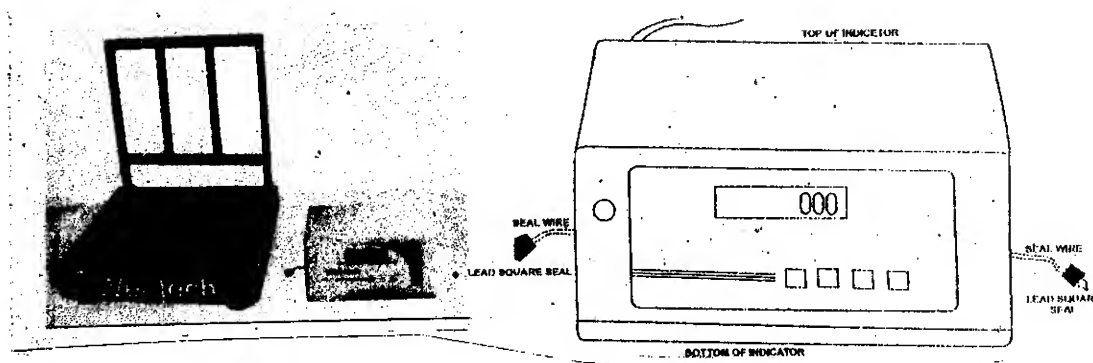


Figure-2—Schematic Diagram of sealing provision of the model.

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate & top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 5000kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'c' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F.No. WM-21(93)/2011]

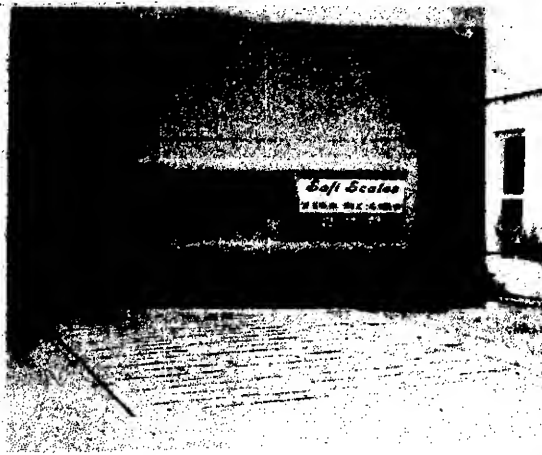
B. N. DIXIT, Director of Legal Metrology

नई दिल्ली, 12 अगस्त, 2011

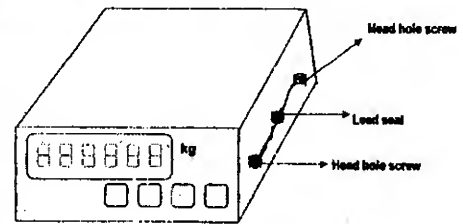
का.आ. 2862.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सफी स्केलस एंड कम्पोनेंट्स, ऊंचा गांव रोड, पंजाबी धर्मशाला के पास, बल्लभगढ़, फरीदाबाद-121004 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एस एस डब्ल्यूबी-30टी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) के मॉडल का, जिसके ब्राण्ड का नाम "एस ए एस आई" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/90 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

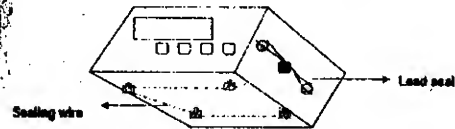
उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) है। इसकी अधिकतम क्षमता 30 टन है और न्यूनतम क्षमता 100 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



Schematic Diagram of stamping and sealing for weighbridge indicator



(Indicator of the Weighbridge — Front Side)



(Indicator of the Weighbridge — Lower back Side)

आकृति-2—मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बाडी में से सीलिंग वायर निकाल कर डिस्पले के राइट साइड/बैक साइड में सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(13)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2011

S.O. 2862.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Electronic Weighbridge) with digital indication of medium Accuracy (Accuracy Class-III) of Series "SSW" and with brand name "SAFI" (hereinafter referred to as the said Model), manufactured by M/s. Safi Scales & Components, Uncha Gaon Road, Near Punjabi Dharmshala, Ballabgarh, Faridabad-121004 and which is assigned the approval mark IND/09/11/90;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Electronic Weighbridge) with a maximum capacity of 50 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1

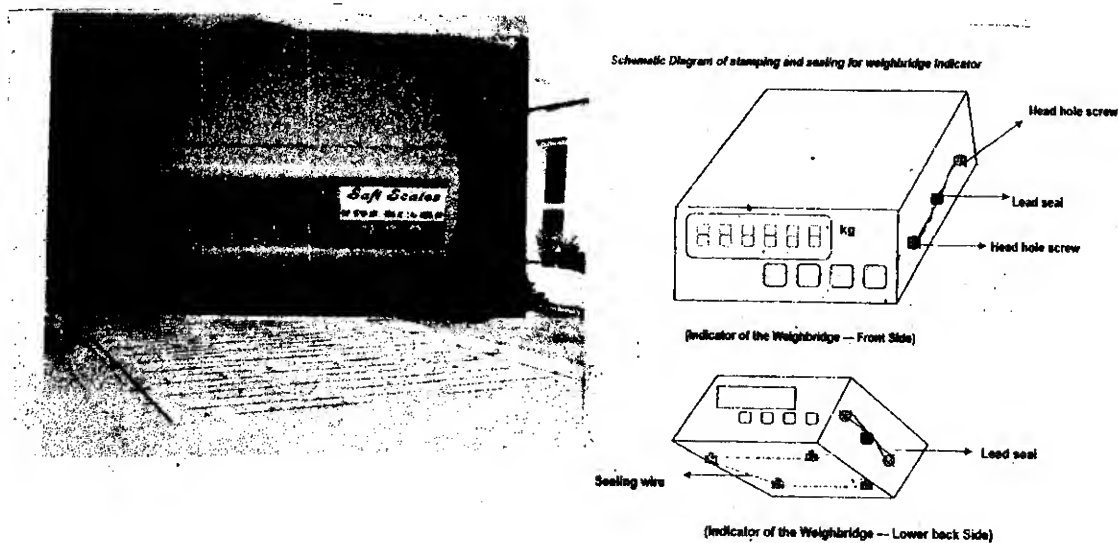


Figure-2—Schematic Diagram of sealing provision of the model.

Sealing is done on the right side/back side of the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 200 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or above and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21-(13)/2011]

B. N. DIXIT, Director of Legal Metrology

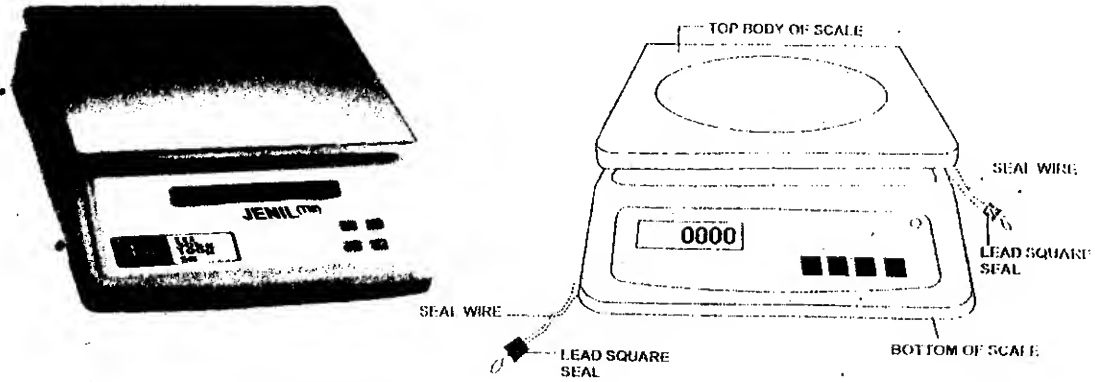
नई दिल्ली, 12 अगस्त, 2011

का.आ. 2863.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा शक्तियों का प्रयोग करते हुए मैसर्स लुहार राजा गोवरधन एंड कंपनी, हवेली रोड, सावरकुण्डला, गुजरात, पिन-364515 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'एलआरजी-टीटी' शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "जेनिल टीएम" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/260 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टाप टाइप) है। जिसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति-1



आकृति-2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक के "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम 21(152)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

3708 4/11-348

New Delhi, the 12th August, 2011

S.O. 2863.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of Medium Accuracy (Accurac Class-III) of series "I.RG-TT" and with brand name "JENIL™" (hereinafter referred to as the said model), manufactured by M/s. Luhar Raja Gordhan & Company, Haveli Road, Savarkundla, Gujarat, Pin-364515 and which is assigned the approval mark IND/09/11/260;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED)/display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

Figure-1

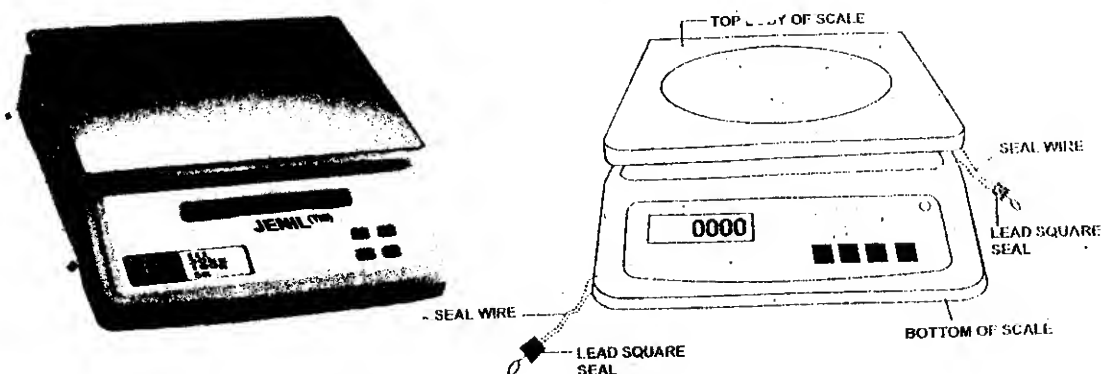


Figure-2 Schematic Diagram of sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(152)/2011]

B. N. DIXIT, Director of Legal Metrology

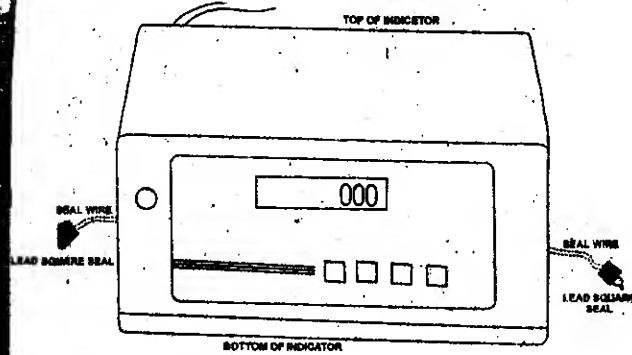
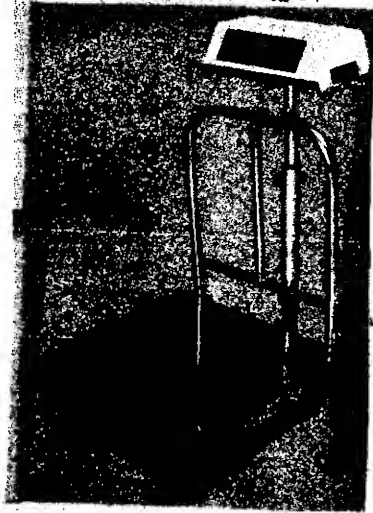
नई दिल्ली, 12 अगस्त, 2011

का.आ. 2864.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा शक्तियों का प्रयोग करते हुए मैसर्स लुहार राजा गोवरधन एंड कंपनी, हवेली रोड, सावरकुण्डला, गुजरात, पिन-364515 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले 'एलआरजीपी' शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "जेनिल टीए" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/261 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। इसकी अधिकतम क्षमता 500 कि. ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति -1



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाड़ी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$, $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(152)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 12th August, 2011

S.O. 2864.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section 22 of the Legal Metrology Act 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of Medium Accuracy (Accuracy class-III) of series "I.RGP" and with brand name "JENIL™" (hereinafter referred to as the said model), manufactured by M/s. Luhar Raja Gordhan & Company, Haveli Road, Savarkundla, Gujarat, Pin-364515 and which is assigned the approval mark IND/09/11-261;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50Hertz alternative current power supply.

Figure-1 Model

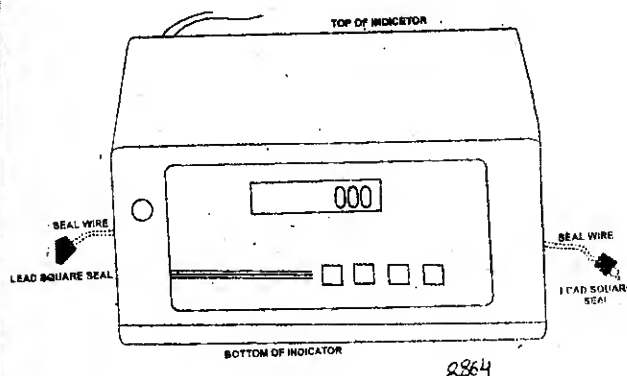
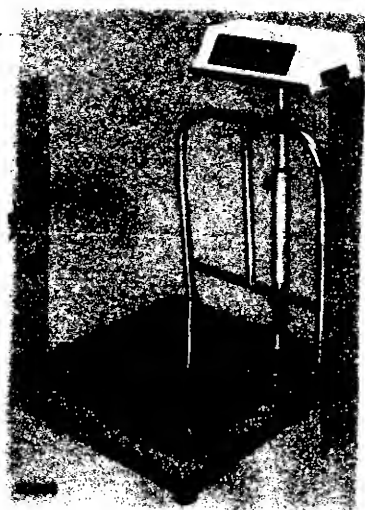


Figure-2 Schematic Diagram of the sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the said approved Model has been manufactured.

[E.No. WM-21(152) 2011]

B. N. DIXIT, Director of Legal Metrology

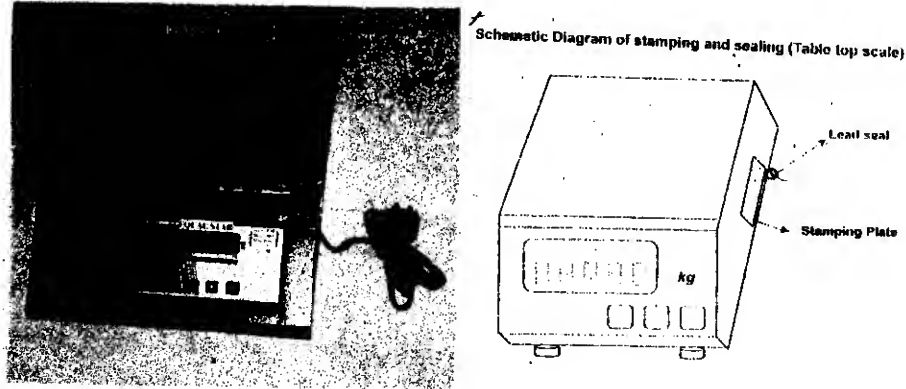
नई दिल्ली, 16 अगस्त, 2011

का.आ. 2865.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम, 8 के उप-नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा शक्तियों को प्रयोग करते हुए मैसर्स महामाया इंस्ट्रूमेंट्स, कुमकुम होटल के सामने, ब्रह्म रोड, अम्बिकापुर-497001 जिला-सरगुजा (छत्तीसगढ़) द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "ईएसटी" श्रृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "इक्वलस्टार" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/184 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी करती है।

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप टाइप) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति -1



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाडी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि. ग्रा. तक के "ई" मान के लिए 100 से 100,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 100,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 , 5×10^6 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(75)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th August, 2011

S.O. 2865.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sections 22 of the Legal Metrology Act 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of High Accuracy (Accuracy class- II) of series "EST" and with brand name "EQUALSTAR" (hereinafter referred to as the said model), manufactured by M/s. Mahamaya Instruments, Opposite Kumkum Hotel, Brām Road, Ambikapur-497001, District-Sarguja (Chhattisgarh) and which is assigned the approval mark IND/09/11/184;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED), display indicates the weighing result. The instrument operates on 230V olts, 50Hertz alternative current power supply.

Figure-1 Model

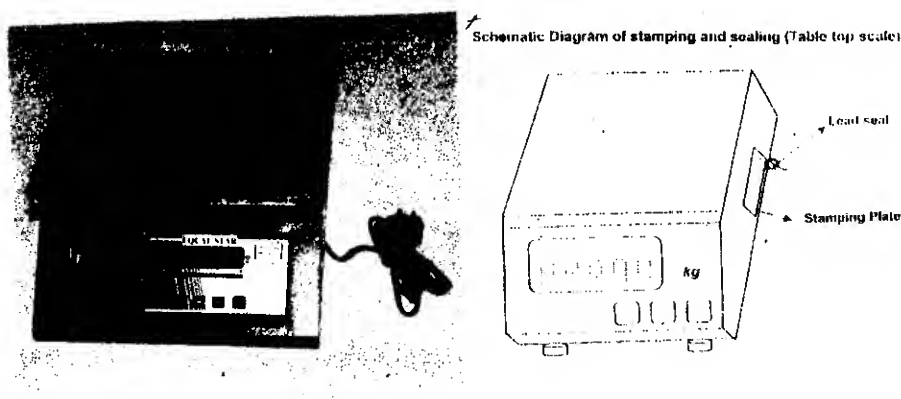


Figure-2 Schematic Diagram of the sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the power conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 100,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 100,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(75)/2011]

B. N. DIXIT, Director of Legal Metrology

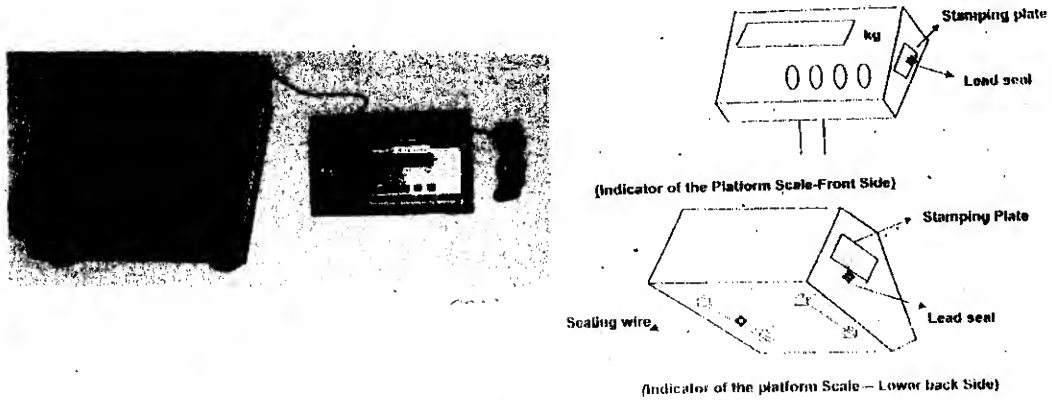
नई दिल्ली, 16 अगस्त, 2011

का.आ. 2866.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) तथा विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप नियम (6) और नियम 11 के उप-नियम (4) के साथ पठित विधिक माप विज्ञान अधिनियम, 2009 (2010 का 1) की धारा 22 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स महामाया इस्ट्रुमेंट्स, कुमकुम होटल के सामने, ब्रह्म रोड, अम्बिकापुर-497001 जिला-सरगुजा (छत्तीसगढ़) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "ईएसपी" श्रृंखला के अंकक सूचन अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) के मॉडल का, जिसके ब्राण्ड का नाम "इक्वलस्टार" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/185 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म टाइप) है। जिसकी अधिकतम क्षमता 1000 कि. ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रात्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति -1



आकृति -2 मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम

डिस्पले की बाडी में से सीलिंग वायर निकाल कर डिस्पले पर सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार विधिक माप विज्ञान (मॉडलों का अनुमोदन) नियम, 2011 के नियम 8 के उप-नियम (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(75)/2011]

बी. एन. दीक्षित, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th August, 2011

S.O. 2866.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Legal Metrology Act, 2009 (1 of 2010) and the Legal Metrology (Approval of Models) Rules, 2011 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Section 22 of the Legal Metrology Act, 2009 (1 of 2010) read with sub-rule (6) of rule 8 and sub-rule (4) of rule 11 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of Medium Accuracy (Accuracy class-III) of series "ESP" and with brand name "EQUALSTAR" (hereinafter referred to as the said model), manufactured by M/s. Mahamaya Instruments, Opposite Kumkum Hotel, Bramh Road, Ambikapur-497001, District-Sarguja (Chhattisgarh) and which is assigned the approval mark IND/09/11/185;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50Hertz alternative current power supply.

Figure-1 Model

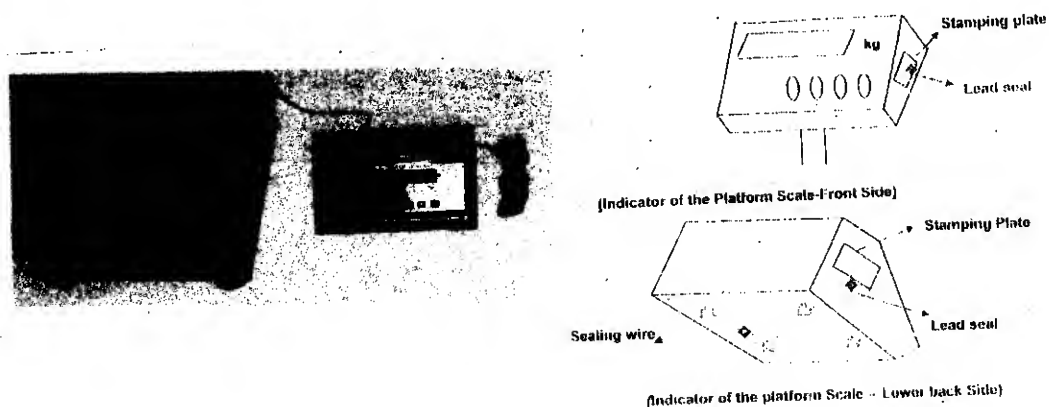


Figure-2 Schematic Diagram of the sealing provision of the model

Sealing is done on the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, than seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card-mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-rule (9) of rule 8 of the Legal Metrology (Approval of Models) Rules, 2011, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the said approved Model has been manufactured.

[F.No.WM-21(75) 2011]

B. N. DIXIT, Director of Legal Metrology

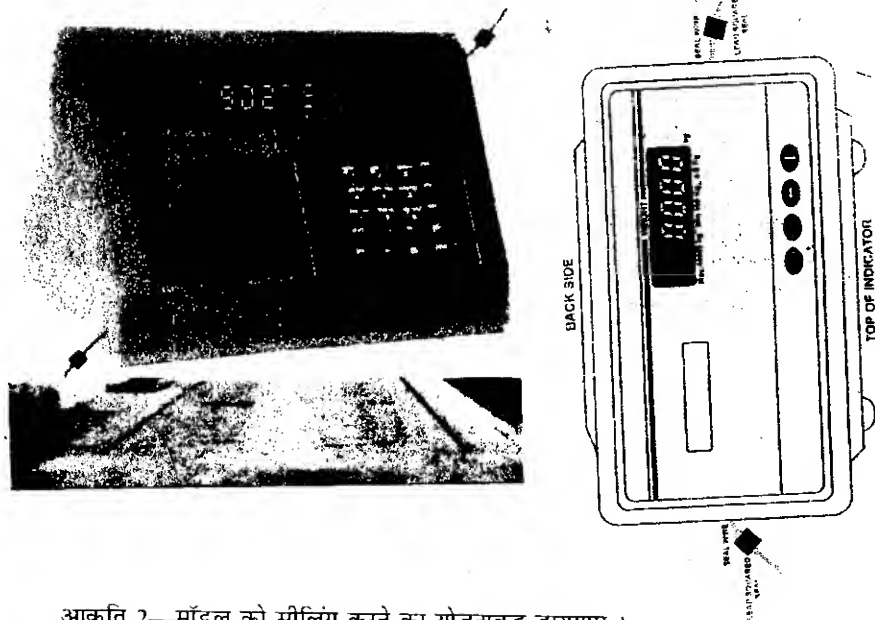
नई दिल्ली, 16 अगस्त, 2011

का.आ. 2867.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स एस.के. इंटरप्राइज, 1-सूर्या काम्पलैक्स, दवे शोपिंग सेंटर के सामने, वसना बैरेज रोड, वसना, अहमदाबाद 380007 (गुजरात) द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एसकेएफडब्ल्यू" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) के मॉडल का, जिसके ब्राण्ड का नाम "ईएसएसकेईई" है, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/11/141 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी करती है;

उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (इलेक्ट्रॉनिक वेब्रिज) है। इसकी अधिकतम क्षमता 40 टन और न्यूनतम क्षमता 100 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

आकृति - 1



आकृति 2—मॉडल को सीलिंग करने का योजनाबद्ध डायग्राम।

डिस्पले की बॉडी में से सीलिंग वायर निकाल कर डिस्पले के राइट साइड/बैक साइड में सीलिंग की जाती है। सील के साथ जुड़े हुए डिस्पले के बेस प्लेट और टॉप कवर में बने दो छेदों में से सीलिंग वायर निकाल कर सील से जोड़ा गया है। मॉडल को सीलबंद करने के उपबंध का एक प्ररूपी योजनाबद्ध डायग्राम उपरोक्त दिया गया है।

उपकरण में बाहरी केलिब्रेशन तक पहुंच की सुविधा है। बाहरी केलिब्रेशन तक पहुंच को रोकने के लिए ए/डी कार्ड/मदर बोर्ड में डिप स्विच भी दिया गया है।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिसमें उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा.या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन)सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. 2867 एम 21(07)/2011]

बी. एन. दीक्षित, निदेशक, विभिन्न माप विज्ञान

New Delhi, the 16th August, 2011

S.O. 2867.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Electronic Weighbridge) with digital indication of Medium Accuracy (Accuracy class -III) of Series "SKFW" and with brand name "ESSKEE" (hereinafter referred to as the said Model), manufactured by M/s. S. K. Enterprise, I-Surya Complex, Opp. Dave Shopping Centre, Vasna Barrage Road, Vasna, Ahmedabad-380007 (Gujarat) and which is assigned the approval mark IND/09/11/141;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Electronic Weighbridge) with a maximum capacity of 40 tonne and minimum capacity of 100kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

Figure-1

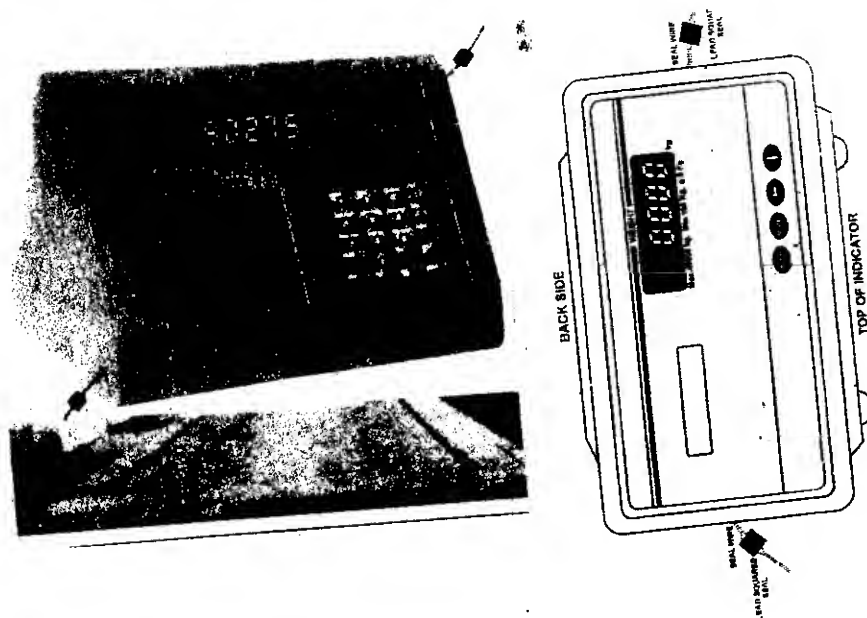


Figure 2—Schematic Diagram of sealing provision of the model.

Sealing is done on the right side/back side of the display by passing sealing wire from the body of the display. The seal is connected by whole in base plate and top cover of display, then seal wire is passed through these two holes attached with seal. A typical schematic diagram of sealing provision of the model is given above.

The instrument has external control to calibration. A dip switch has also been provided in A/D card/mother board to disable access to external calibration.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 200 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or above and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21 (07)/2011]

B. N. DIXIT, Director of Legal Metrology

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 7 सितम्बर, 2011

का.आ. 2868.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:-

1. केन्द्रीय भण्डारण निगम,
केन्द्रीय भंडारगृह,
हापा, जामनगर,
पिन कोड-361006
2. केन्द्रीय भण्डारण निगम,
केन्द्रीय भंडारगृह,
राजकोट- I
पिन कोड-360001
3. केन्द्रीय भण्डारण निगम,
केन्द्रीय भंडारगृह,
राजकोट- II
पिन कोड-360003

[सं. ई 11011/1/2008 हिंदी]

गिरीश शंकर, संयुक्त सचिव

(Department of Food and Public Distribution)

New Delhi, the 7th September, 2011

S.O. 2868.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the following offices under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Deptt. of Food & Public Distribution), where of more than 80% of staff has acquired the working knowledge of Hindi :

1. Central Warehousing Corporation,
Central Warehouse,
Hapa, Jamnagar,
Pin Code-361006
2. Central Warehousing Corporation,
Central Warehouse,
Rajkot-I,
Pin Code-360001
3. Central Warehousing Corporation,
Central Warehouse,
Rajkot-II,
Pin Code-360003

[No. E-11011/1/2008-Hindi]
GIRISH SHANKAR, Jr. Secy.

(भारतीय मानक ब्यूरो)

नई दिल्ली, 28 सितम्बर, 2011

का.आ. 2869.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :-

अनुसूची

संशोधित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)
आई एस 9283 : 1995 निमज्जन पम्पसेटों के लिए मोटर्स -विशिष्ट (प्रथम पुनरीक्षण की संशोधन संख्या 3)	4, अगस्त 2011	23-9-2011

इस संशोधन की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 15/टी-30]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

(Bureau of Indian Standards)

New Delhi, the 28th September, 2011

S.O. 2869.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

No. and Year of the Indian Standards	No. and Year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)
IS 9283 : 1995 Motors for submersible pumpsets Specification (First Revision)	4, August 2011	23-9-2011

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: IET 15/I-30]

R. K. TREHAN, Scientist 'E' & Head (Electro-technical)

नई दिल्ली, 28 सितम्बर, 2011

का.आ. 2870.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम सं.	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 14930 (Part 1) : 2001 की संशोधन संख्या 3	3, अगस्त 2011	23 9-2011
2.	आई एस 14930 (Part 2) : 2001 की संशोधन संख्या 2	2, अगस्त 2011	23 9 2011

इन संशोधनों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 14 /टी-84, टी-19]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 28th September, 2011

S.O. 2870.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl.No.	No. and Year of the Indian Standards	No. and Year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 14930 (Part 1) : 2001 Conduit Systems for Electrical Installations Part 1 General Requirements	3, August 2011	23-9-2011
2.	IS 14930 (Part 2) : 2001 Conduit Systems for Electrical Installations Part 2 Particular Requirements for Conduit System Buried Underground	2, August 2011	23-9-2011

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: ET 14/T-84, T-19]

R. K. TREHAN, Scientist 'E' & Head (Electro-technical)

नई दिल्ली, 29 सितम्बर, 2011

का.आ. 2871.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे रद्द कर दिए गए हैं और वापस ले लिये गये हैं :

अनुसूची

क्रम	रद्द किये गये मानक (कों) की संख्या, संख्या वर्ष और शीर्षक	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
1.	आई एस 1509:1972 पशुधन आहार के रूप में टैपिओका (कसावे) की विशिष्टि (पहला पुनरीक्षण)	का.आ. संख्या-1750 तिथि- 07-06-1975	उपयोग में नहीं है।
2.	आई एस 1705:1972 दुग्ध बोतल ढक्कन के लिए अल्युमिनियम फॉयल की विशिष्टि (पहला पुनरीक्षण)	का.आ. संख्या-0770 तिथि- 08-03-1975	प्रौद्योगिकी सुधार के मद्देनजर अब उपयोग में नहीं है।
3.	आई एस 2144:1962 हाथ संचालित बोतल वॉशर की विशिष्टि	का.आ. संख्या-3226 तिथि- 27-10-1962	प्रौद्योगिकी सुधार के मद्देनजर अब उपयोग में नहीं है।
4.	आई एस 2145:1962 हाथ संचालित बोतल वॉशर की विशिष्टि	का.आ. संख्या-3226 तिथि- 27-10-1962	प्रौद्योगिकी सुधार के मद्देनजर अब उपयोग में नहीं है।
5.	आई एस 2146:1962 दुग्ध बोतलों के लिए हाथ संचालित ढक्कन सीलर की विशिष्टि	का.आ. संख्या-3226 तिथि- 27-10-1962	प्रौद्योगिकी सुधार के मद्देनजर अब उपयोग में नहीं है।
6.	आई एस 3162:1965 चना भूसी की विशिष्टि	का.आ. संख्या-0444 तिथि- 12-02-1966	उपयोग में नहीं है।
7.	आई एस 5064:1980 पशुधन आहार के रूप में टैपिओका स्पैट पल्प की विशिष्टि (पहला पुनरीक्षण)	का.आ. संख्या-3278 तिथि- 20-10-1984	उपयोग में नहीं है।
8.	आई एस 7061:1973 पशुधन आहार अनुपूरक के रूप में कैल्साइन्ड हड्डी भोजन की विशिष्टि	का.आ. संख्या-0182 तिथि- 10-01-1976	उपयोग में नहीं है।
9.	आई एस 7247 (भाग 2):1974 कृषि उत्पाद के धूमन के लिए रिति संहिता भाग 2 : ईथीलीन डाइब्रोमाइड	का.आ. संख्या-0988 तिथि- 06-03-1976	ईथीलीन डाइब्रोमाइड का उपयोग एवं विपणन भारत सरकार द्वारा प्रतिबंधित कर दिया गया है
10.	आई एस 9599:1980 पशुधन आहार के रूप में रबड़ बीज के केक की विशिष्टि	का.आ. संख्या-3278 तिथि- 20-10-1984	उपयोग में नहीं है।
11.	आई एस 9967:1997/ आई एस ओ 4099:1984 चीज नाइट्रेट तथा नाइट्राइट अंश ज्ञात करना- कैडमियम अपचयन तथा फोटोमिट्रि पद्धति द्वारा (पहला पुनरीक्षण)	का.आ. संख्या-0618 तिथि- 28-03-1998	निम्नलिखित मानकों द्वारा अतिक्रमित: (क) आई एस 9967 (भाग 1): 2008/आई एस ओ 14673 1:2004 दुग्ध एवं दुग्ध उत्पाद नाइट्रेट तथा नाइट्राइट का अंश निर्धारण भाग 1 कैडमियम अपचयन तथा स्पेक्ट्रोमेट्री पद्धति (दूसरा पुनरीक्षण) (ख) आई एस 9967 (भाग 2): 2008/आई एस ओ 14673 2 : 2004 दुग्ध एवं दुग्ध उत्पाद नाइट्रेट तथा नाइट्राइट का अंश निर्धारण

1	2	3	4
			भाग 2 पृथक्कृत प्रवाह विश्लेषण पद्धति (सामान्य विधि) (दूसरा पुनरीक्षण) (ग) आई एस 9967 (भाग 3): 2008/आई एस ओ 14673 3 : 2004 दुग्ध एवं दुग्ध उत्पाद-नाईट्रेट तथा नाईट्राईट का अंश निर्धारण भाग-3 कैडमियम अपचयन तथा इन-लाइन डायलिसिस के साथ द्रव अंतः क्षेपण विश्लेषण पद्धति (सामान्य विधि) (दूसरा पुनरीक्षण) उपयोग में नहीं है।
12.	आई एस 10670:1983 पशुधन आहार के घटक के रूप में तंबाकू केक की विशिष्टि	का.आ. संख्या-3975 तिथि- 29-11-1986	
13.	आई एस 11063:1984- मेटोक्सयूरोन पानी में डिस्परसिबल पाउडर की विशिष्टि	का.आ. संख्या-0463 तिथि- 14-02-1987	मेटोक्सयूरोन का उपयोग भारत सरकार द्वारा वापस ले लिया गया है।
14.	आई एस 11135:1984- मेटोक्सयूरोन तकनीकी की विशिष्टि	का.आ. संख्या-0701 तिथि- 14-03-1987	मेटोक्सयूरोन का उपयोग भारत सरकार द्वारा वापस ले लिया गया है।
15.	आई एस 13574:1992- पशुधन आहार तथा भरण सामग्री-खनिज अनुपूरकों में कैल्शियम तथा मैगनिशियम ज्ञात करना	का.आ. संख्या-1106 तिथि- 29-05-1993	उपयोग में नहीं है।
16.	आई एस 14433 भाग 1:1997 शिशु दुग्ध के वैकल्पिक आहार-विशिष्टि भाग 1 दुग्ध प्रोटीन से बने	का.आ. संख्या-0371 तिथि- 06-02-1999	आई एस 14433:2007 शिशु दुग्ध के वैकल्पिक आहार विशिष्टि (पहला पुनरीक्षण) के द्वारा अतिक्रमित
17.	आई एस 14825:2000/आई एस ओ 5983:1997 पशु आहार-नाईट्रोजन की मात्रा ज्ञात करना एवं क्रूड प्रोटीन की मात्रा की गणना-जैलडाल पद्धति	का.आ. संख्या-2604 तिथि- 02-12-2000	आई एस/आई एस ओ 5983 (भाग 1):2005 पशु आहार सामग्री नाईट्रोजन की मात्रा निर्धारण एवं क्रूड प्रोटीन की मात्रा मापन भाग 1 जैलडाल पद्धति के द्वारा अतिक्रमित
18.	आई एस 14830:2000/आई एस ओ 6496:1983 पशु आहार-नमी की मात्रा ज्ञात करना	का.आ. संख्या-2604 तिथि- 02-12-2000	आई एस/आई एस ओ 6496:1999 पशु आहार सामग्री-आर्द्रता एवं वाष्पशील पदार्थ की मात्रा निर्धारण के द्वारा अतिक्रमित

[संदर्भ : एफएडी/जी-128]

डॉ. आर. के. बजाज, वैज्ञानिक एफ एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 29th September, 2011

S. O. 2871.—In pursuance of Clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, it is, hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule hereafter, have been cancelled and stand withdrawn :—

SCHEDULE

SI. No.	No. & Year of the Indian Standards Cancelled	S.O. No. & Date published in the Gazette India, Part II, Section 3, Sub-section (ii)	Date of Established
1	2	3	4
1.	IS 1509:1972 Specification for tapioca as livestock feed (first revision)	S.O. No. 1750 Dated: 07-06-1975	No longer in use

1	2	3	4
2.	IS 1705:1972 Specification for aluminum foil for milk bottle caps (first revision)	S.O. No. 0770 Dated: 08-03-1975	No longer in use in view of technology improvements
3.	IS 2144:1962 Specification for hand operated bottle washer	S.O. No. 3226 Dated: 27-10-1962	No longer in use in view of technology improvements
4.	IS 2145:1962 Specification for hand bottle filler	S.O. No. 3226 Dated: 27-10-1962	No longer in use in view of technology improvements
5.	IS 2146:1962 Specification for hand operated cap sealer for milk bottles	S.O. No. 3226 Dated: 27-10-1962	No longer in use in view of technology improvements
6.	IS 3162:1965 Specification for gram husk	S.O. No. 0444 Dated: 12-02-1966	No longer in use
7.	IS 5064:1980 Specification for tapioca spent pulp as livestock feed first revision	S.O. No. 3278 Dated: 20-10-1984	No longer in use
8.	IS 7061:1973 Specification for calcined bone meal as livestock feed supplement	S.O. No. 0182 Dated: 10-01-1976	No longer in use
9.	IS 7247 (Part 2):1974 Code of practice for fumigation of agricultural produce- Part 2 : Ethylene dibromide	S.O. No. 0988 Dated: 06-03-1976	The marketing and use of ethylene dibromide has been banned by Govt. of India
10.	IS 9599:1980 Specification for rubber seed cake as livestock feed	S.O. No. 3278 Dated: 20-10-1984	No longer in use
11.	IS 9967:1997/ISO 4099:1984 Cheese-Determination of nitrate and nitrite content Method by cadmium reduction and photometry (first revision)	S.O. No. 0618 Dated: 28-03-1998	Superseded by : (i) IS 9967 (Part 1):2008/ISO 14673-1:2004 Milk and Milk products Determination of nitrate and nitrite contents: Part 1 Method using cadmium reduction and spectrometry (second revision) (ii) IS 9967 (Part 2): 2008 ISO 14673-2:2004 Milk and Milk products-Determination of nitrate and nitrite contents: Part 2 Method using segmented flow analysis (routine method) (second revision) (iii) IS 9967 (part 3):2008/ISO 14673-3:2004 Milk and Milk products-Determination of nitrate and nitrite contents: part 3 Method using cadmium reduction and flow injection analysis with in line dialysis (routine method) (second revision)

1	2	3	4
12.	IS 10670:1983 Specification for Virginia tobacco seed cake as livestock feed ingredient	S.O. No. 3975 Dated: 29-11-1986	No longer in use
13.	IS 11063:1984 Specification for Metoxuron Water Dispersible Powders	S.O. No. 0463 Dated: 14-02-1987	Use of Metoxuron has been withdrawn by Govt. of India
14.	IS 11135:1984 Specification for Metoxuron, Technical	S.O. No. 0701 Dated: 14-03-1987	Use of Metoxuron has been withdrawn by Govt. of India
15.	IS 13574:1992 Animal feeds and feeding stuffs-Determination of calcium and magnesium in mineral supplements	S.O. No. 1106 Dated: 29-05-1993	No longer in use
16.	IS 14433 (Part 1):1997 Infant milk substitutes-Specification: Part 1 Milk protein based	S.O. No. 0371 Dated: 06-02-1999	Superseded by IS 14433:2007 Infant milk substitutes—Specification
17.	IS 14825:2000/ISO 5983:1997 Animal feeding stuffs-Determination of nitrogen content and calculation of crude protein content—Kjeldahl Method	S.O. No. 2604 Dated: 02-12-2000	Superseded by IS/ISO 5983-1:2005 Animal feeding stuffs—Determination of nitrogen content and calculation of crude protein content-Part 1 Kjeldahl Method
18.	IS 14830:2000/ISO 6496:1983 Animal feeding stuff—Determination of moisture content	S.O. No. 2604 Dated: 02-12-2000	Superseded by IS/ISO 6496:1999 Animal feeding stuffs—Determination of moisture and other volatile matter content

[Ref: FAD/G-128]

Dr. R. K. BAJAJ, Scientist F and Head (Food & Agri.)

नई दिल्ली, 3 अक्टूबर, 2011

का.आ. 2872.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उप-विनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि	पार्टी का नाम एवं पता	भारतीय मानक का शीर्षक	भा. मा.	भाग	अनुभाग	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3754975	26-8-2011	मैसर्स फिनोलेक्स प्लास्सन् इंडस्ट्रीज प्रा. लि., प्लॉट नं. 399, उरसे तालुका मावल, जिला पुणे, महाराष्ट्र-410506	सिंचाई उपस्कर-सिंक्लर पाइप-विशिष्ट: भाग 2 सहज संयोजी पालीएथिलीन पाइप और फिटिंग	14151	02	-	2008
2.	3721960	9-9-2011	मैसर्स दानवडे शिंदे ग्रुप ऑफ इंडस्ट्रीज, गट संख्या 160 करनदोशी, पोस्ट कारंदी, तालुका जवली, जिला सतारा, महाराष्ट्र-415514	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिन्नरल जल के अलावा)	14543			2004

3708 GJ/11-6B

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
3.	3724562	19-9-2011	मैसर्स स्वास्तिक इंडस्ट्रीज, प्लॉट नं. ए-64, पैठन एमआईडीसी, पैठन जिला औरंगाबाद, महाराष्ट्र-431107	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543		—	2004

[सं. सीएमडी/13:11]

बी. एम. हनीफ, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 3rd October, 2011

S.O. 2872.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards hereby notifies the grant of licences particulars of which are given below in the following schedule :—

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3754975	26-8-2011	M/s. Finolex Plasson Industries Pvt. Ltd., Plot No. 399, Urse Taluka Maval, District Pune, Maharashtra-410506	Irrigation equipment Sprinkler Pipes-Specification: Part 2 Quick coupled polyethylene pipes and fittings	14151	02	—	2008
2.	3721960	9-9-2011	M/s. Dhanawade Shinde Group of Industries, Gat No. 160, Karandoshi, Post Karandi, Taluka Jaoli, District Satara, Maharashtra-415514	Packaged drinking water (Other than packaged natural mineral water)	14543		—	2004
3.	3724562	19-9-2011	Swastik Industries, Plot No. A-64, Paithan MIDC, Paithan, District Aurangabad Maharashtra-431107	Packaged drinking water (Other than packaged natural mineral water)	14543		—	2004

[No. CMD/13:11]

B. M. HANEEF, Scientist 'F' and Head

नई दिल्ली, 4 अक्टूबर, 2011

का.आ. 2873.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खण्ड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम सं.	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15086(भाग 1): 2001/आईईसी (1991) की संशोधन संख्या 1	1, सितम्बर, 2011	3 10-2011

इन भारतीय संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 30/टी 5]

आर. के. त्रेहन, वैज्ञानिक 'ई' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 4th October, 2011

S.O. 2873.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and Year of the Amendments	Date from which the Amendments shall have effect
(1)	(2)	(3)	(4)
1.	IS 15086(Part1): 2001/IEC 60099-1-(1991) Surge arresters, Part 1 : Non linear resistor type capped surge arrestors for a.c. systems	1, September 2011	3-10-2011

Copy of the amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 30/T-5]

R. K. TREHAN, Scientist 'E' & Head (Electro-technical)

नई दिल्ली, 7 अक्टूबर, 2011

का.आ. 2874.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खण्ड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अधिसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम सं.	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 648: 2006 अतप्त बेल्लित गैर-दिशात्मक विद्युत इस्पात की चद्दर एवं पत्ती-पूर्ण प्रक्रमित प्ररूप-विशिष्ट (पांचवा पुनरीक्षण)	संशोधन संख्या 4 अक्टूबर 2011	7 अक्टूबर, 2011

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी 4/टी 23]

पी. के. गम्भीर, वैज्ञानिक 'जी' एवं मुख्य अधिकारी (मानकीकरण)

New Delhi, the 7th October, 2011

S.O. 2874.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and title of the Standard (s)	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 648:2006 Cold rolled non-oriented electrical steel sheet and strip—Fully processed type—specification (fifth revision)	Amendment No. 4 October 2011	7-10-2011

Copies of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: MTD 4/T-23]

P. K. GAMBHIR, Scientist 'G' & Chief (Standardization)

नई दिल्ली, 10 अक्टूबर, 2011

का.आ. 2875.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उप-विनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि, वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग	अनुभाग	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	L-9888323	2-9-2011	मै. आर जी बिबरेजिज एण्ड कम्पनी, 12.5 के एम, वजीरपुर मोड, गांव ढोरका, जिला गुडगांव हरियाणा	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543		—	2004
2.	L-9883717	5-9-2011	मै. किरण पाइप इण्डस्ट्रीज, गांव सिसोद, महेन्द्रगढ़, जिला महेन्द्रगढ़-123029 हरियाणा	सिचाई उपस्कर—स्प्रिंकलर पाइप भाग 1 पालीएथिलीन पाइप	14151	01	—	1999
3.	L-9883919	5-9-2011	मै. दलाल टाइल्स इंडस्ट्रीज, बहादुरगढ़ खरखौदा रोड, निकट दादा बुद्धा मंदिर, असौदा, जिला झज्जर-124505, हरियाणा	सीमेंट कंक्रीट की बनी हुई फर्श की टाइलें	1237		—	1980
4.	L-9884012	5-9-2011	मै. दलाल टाइल्स इंडस्ट्रीज, बहादुरगढ़ खरखौदा रोड, निकट दादा बुद्धा मंदिर, असौदा, जिला झज्जर-124505, हरियाणा	चकोरदार सीमेंट कंक्रीट टाइलें	13801		—	1993
5.	L-9884618	7-9-2011	मै. लाइफलाइन थर्मामीटर इंडस्ट्रीज, 156 (प्रथम तल), फेस 6, जिला गुडगांव-122001 हरियाणा	डाक्टरी थर्मामीटर भाग 1 टोस डंडी प्रकार	3055	01	—	1994
6.	L-9887119	15-9-2011	मै. मित्तल ट्रेड्स, 67, ब्लॉक 8, बादशाहपुर, जिला गुडगांव-122101, हरियाणा	सामान्य प्रयोजन के लिए एक फेजो ए सी प्रेरण मोटरें	996		—	2009
7.	L-9887018	16-9-2011	मै. कान्डीनेन्टल मैनुफैक्चरिंग कम्पनी, प्लॉट नं. 64, सैक्टर-3, एच एस आई आई डी सी, जी सी बावल, जिला रेवाड़ी, हरियाणा	औद्योगिक सुरक्षा पट्टे व सज्जा कवच	3521		—	1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
8.	L-9886319	19-9-2011	मै. एस आर एम ज्वैल्स, (यूनिट ऑफ एस आर एस लि.), शाप नं. 21, कामेटी चौक, देवी मन्दिर के पास, जिला पलवल, हरियाणा	स्वर्ण एवं स्वर्ण मिश्रधातुएं 1417 आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन				1999
9.	L-9888222	28-9-2011	मै. मनाली मिनरल वाटर इन्टरप्राइसिज, गांव बड़ा, डाकघर सिकन्दरपुर बड़ा, जिला गुडगांवा, हरियाणा	पैकेजबन्द पेय जल, (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा	14543			2004
10.	L-9888525	28-9-2011	मै. सी एम आई लि., प्लॉट नं. 71 व 82, सेक्टर-6, जिला फरीदाबाद-121006 हरियाणा	1100 वोल्ट तक तथा सहित की कार्यकारी वोलटेज के लिए इलैसटोमर विद्युत्तरोधी केबल्स	9968	01		1988
11.	L-9888828	28-9-2011	मै. इण्डो-ऐवन स्विचगेयर, सी-2, कवरान गांव, नियर ऋचा निट्स, खेड़ी-जसाना रोड, जिला फरीदाबाद-121007 हरियाणा	250 वोल्ट तक की रेटित वोल्टता वाले और 16 एम्पीयर तक की रेटित करंट वाले प्लग और सॉकेट निकास	1293			2005
12.	L-9888929	28-9-2011	मै. इण्डो-ऐवन स्विचगेयर, सी-2, कवरान गांव, नियर ऋचा निट्स, खेड़ी-जसाना रोड, जिला फरीदाबाद-121007 हरियाणा	घरेलू और समान कार्यों के लिए स्विच	3854			1997

[सं. सीएमडी 13:11]

एम. सदाशिवम, वैज्ञानिक एफ एवं प्रमुख (एफडीओ)

New Delhi, the 10th October, 2011

S.O. 2875.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No. CM/L-	Grant Date	Name and Address of the Licensee	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	L-9888323	2-09-2011	M/s. R. G. Beverages & Co., 12.5 KM, Wazirpur Mode, Village Dhorka, Distt. Gurgaon Haryana	Packaged Drinking Water (Other than packaged Natural Mineral Water)	14543	-	-	2004
2.	L-9883717	5-09-2011	M/s. Kiran Pipe Industries, Village Sisoth Mahndergarh Distt. Mahendragarh-123029 Haryana	Irrigation Equipment Sprinler Pipes Part I Polyethylene Pipes	14151	01	-	1999
3.	L-9883919	5-09-2011	M/s. Dalal Tiles Industries, Bhadurgarh-Kharkhoda Road, Near Dada Buddha Mandir, Asaudha, Distt. Jhajjar-124505 Haryana	Cement Concrete Flooring Tiles	1237	-	-	1980

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4.	L-9884012	5-09-2011	M/s. Dalal Tiles Industries, Bhadurgarh-Kharkhoda Road, Near Dada Buddha Mandir, Asaudha, Distt. Jhajjar-124505 Haryana	Chequered Cement Concrete Tiles	13801			1993
5.	L-9884618	7-09-2011	M/s. Lifeline Thermometer Industries, 156 (First Floor), Udyog Vihar, phase-VI, Distt. Gurgaon-122001 Haryana	Clinical Thermometers Part I Solid Stem Type	3055	01	-	1994
6.	L-9887119	15-09-2011	M/s. Mittal Traders, 67, Block-8, Badshahpur, Distt. Gurgaon-122101 Haryana	Single Phase a.c. Induction Motors for General Purpose	996	-	-	2009
7.	L-9887018	16-09-2011	M/s. Continental Manufacturing Co., Plot No. 64, Sector-3, HSIIDC, G. C. Bawal, Distt. Rewari, Haryana	Industrial Safety Belts and Harnesses	3521	-	-	1999
8.	L-9886319	19-09-2011	M/s. SRS Jewells (Unit of SRS Ltd.), Shop No. 21, Committee Chowk, Near Devi Mandir, Distt. Palwal Haryana	Gold & Gold Alloys, Jewellery/Artefacts-Fineness and Marking	1417	-	-	1999
9.	L-9888222	28-09-2011	M/s. Manali Mineral Water Enterprises, Village-Badha, P.O. Sikanderpur Badha, Distt. Gurgaon, Haryana	Packaged Drinking Water (Other Than Packaged Natural Mineral Water)	14543			2004
10.	L-9888525	28-09-2011	M/s. CMI Ltd., Plot No. 71 & 82, Sector-6, Distt. Faridabad-121006 Haryana	Elastomer Insulated Cables Part I for Working Voltage upto and including 1100 Volts	9968	1	-	1998
11.	L-9888828	28-09-2011	M/s. Indo-Avon Switchgear, C-2, Kawran Village, Near Richa Knits, Kheri-Jasana Road, Distt. Faridabad-121007 Haryana	Plugs and Socket Outlets of rated voltage upto and including 16 Amperes	1293	-	-	2005
12.	L-9888929	28-09-2011	M/s. Indo-Avon Switchgear, C-2, Kawran Village, Near Richa Knits, Kheri-Jasana Road, Distt. Faridabad-121007 Haryana	Switches for Domestic and Similar Purposes	3854	-		1997

[No. CMD/13:11]

M. SADASIVAM, Scientist F & Head (FDO)

पैट्रोलियम और प्राकृतिक गैस मंत्रालय		(1)	(2)	(3)	(4)	(5)	(6)
नई दिल्ली, 10 अक्टूबर, 2011		वडगाम	मजादार	नाला	00	00	85
का.आ. 2876.—केन्द्रीय सरकार को ऐसा प्रतीत होता है				399	00	00	60
कि लोक हित में यह आवश्यक है कि गुजरात राज्य में सलाया से				उमरदास नदी	00	07	73
उत्तर- प्रदेश राज्य में मथुरा तक पैट्रोलियम क्रूड के परिवहन के लिए		पालनपुर	कानोदर	उमरदास नदी	00	11	22
‘‘सलाया-मथुरा पाइपलाइन के अन्तर्गत डी-बॉटलनेकिंग परियोजना’’				302	00	00	07
के कार्यान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक				301	00	15	05
पाइपलाइन बिछाई जानी चाहिए ;				300	00	02	67
और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के				305	00	16	24
प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में,				299	00	00	76
जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो				306	00	21	32
इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार				297	00	02	69
का अर्जन किया जाए ;				349	00	07	80
अतः अब केन्द्रीय सरकार, पैट्रोलियम और खनिज				348	00	01	21
पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम,				307	00	39	53
1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त				347	00	32	29
शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का				311	00	06	55
अर्जन करने के अपने आशय की घोषणा करती है ;				312	00	00	90
कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि से हितबद्ध		पालनपुर	जगाना	182	00	00	27
है, उस तारीख से जिसको, भारत के राजपत्र में यथा प्रकाशित इस				180	00	07	38
अधिसूचना की प्रतियां जनसाधारण को उपलब्ध करा दी जाती हैं,				181/1	00	13	30
इक्कीस दिन के भीतर, उसमें उपयोग के अधिकार का अर्जन करने				एस एच-41	00	05	18
या भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में श्री एम जी परमार,				कच्चा रास्ता	00	05	07
सक्षम प्राधिकारी (गुजरात), इंडियन ऑयल कॉर्पोरेशन लिमिटेड,				187	00	23	43
(पाइपलाइन प्रभाग) पलांट नं. 10, पटेल सोसाइटी, (आई. ओ. सी.				कच्चा रास्ता	00	02	70
कालोनी के पास) विरमगाम (जिला अहमदाबाद) गुजरात-382150				189/2	00	05	74
को लिखित रूप में आक्षेप भेज सकेगा ।				189	00	17	54
अनुसूची				कच्चा रास्ता	00	02	53
जिला : बनासकांठा		राज्य : गुजरात		190	00	15	92
तहसील गांव का नाम		सर्वे नं./	क्षेत्रफल	कच्चा रास्ता	00	02	01
		ब्लाक नं.	हेक्टेयर	214	00	15	56
			एयर वर्ग	215	00	07	42
			मीटर	220	00	13	60
(1)	(2)	(3)	(4)	(5)	(6)		
वडगाम	शेरपुरा	38	00	08	74	221	00 11 76
वडगाम	मजादार	328	00	28	64	222	00 11 02
		329	00	09	59	सड़क	00 03 88
		330	00	07	68	229+230	00 42 44
		331	00	07	16	226	00 06 15
	कच्चा रास्ता		00	03	18	228	00 08 73
		342	00	17	15	237	00 09 84
		339	00	03	52	238	00 06 50
		340	00	25	24	240	00 15 74
						कच्चा रास्ता	00 01 88

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
पालनपुर	जगाना	241	00	03	76	पालनपुर	पालनपुर	1333	00	38	12
		सड़क	00	02	86			931	01	08	41
		265	00	12	47			एन एच-14	00	07	21
		264	00	24	78			कच्चा रास्ता	00	07	59
		269	00	11	60			700	00	54	14
		268	00	10	67			701	00	16	67
		270	00	02	93			703	00	11	98
		कच्चा रास्ता	00	02	02			705	00	12	53
		285+286/1	00	54	16			706	00	39	22
		284	00	15	82			707	00	44	18
		311	00	07	43			692	00	22	91
		312	00	08	82			एन डी आर रोड	00	04	46
		313	00	28	33			477	00	25	96
पालनपुर	गटामन	कच्चा रास्ता	00	02	35			478	00	40	28
		63	00	15	75			443	00	40	76
पालनपुर	इसीबपुरा	कच्चा रास्ता	00	05	05			444	00	05	15
		14	00	13	25			445	00	25	98
		16	00	38	17			447	00	35	88
		17	00	13	64			449	00	48	00
		कच्चा रास्ता	00	00	73			448	00	00	13
		4+5	00	42	95			कच्चा रास्ता	00	04	35
		6	00	34	07			435	00	45	62
पालनपुर	पालनपुर	1026	00	26	28			सड़क	00	05	98
		कच्चा रास्ता	00	03	62			415	00	47	21
		1021	00	12	38			350	00	61	80
		1022	00	11	42			351	00	19	13
		कच्चा रास्ता	00	01	97			352	00	13	04
		905	00	22	00			353	00	03	35
		898	00	00	53			सड़क	00	04	60
		900	00	04	46			346	00	05	24
		904	00	02	57			347	00	43	31
		902	00	16	89			333	00	36	39
		सड़क	00	02	14			सड़क	00	05	45
		819	00	08	24			288	00	45	13
		817	00	23	36			289	00	10	28
		820	00	00	11			295	00	27	46
		829	00	55	87			294	00	17	68
		816	00	16	06			293	00	31	83
		860	00	01	48			सड़क	00	06	33
		832	00	60	21			302	00	14	87
		855	00	04	63			304	00	22	72
		851	00	42	00			305	00	17	50

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
पालनपुर	पालनपुर	306	00	08	42	पालनपुर	वरवादिवा	20+21	00	18	75
		307	00	11	30			17	00	02	11
		310	00	23	01			22+23	00	03	86
पालनपुर	अकेसन	95	00	00	22	पालनपुर	खीमाना	52+53	00	09	26
		94	00	32	66	पालनपुर	मालाना	151+152+153	00	21	57
		93	00	18	37			150	00	16	90
		91	00	01	20			149	00	06	06
		92	00	14	99			146+148	00	25	67
	नाला	00	09	15		पालनपुर	हिब्वतपुर	58	00	46	57
	66	00	00	48			कच्चा रास्ता		00	02	00
	67	00	08	15			16/1		00	07	99
	70	00	14	33			15		00	28	19
	71	00	02	12			कच्चा रास्ता		00	01	81
	72	00	18	65			14		00	30	75
	सड़क	00	02	57			कच्चा रास्ता		00	00	90
	26	00	39	66			3		00	13	72
	कच्चा रास्ता	00	01	23			4/4		00	00	05
	25	00	23	95			9		00	05	72
	रेलवे	00	05	75			8		00	04	68
	24	00	19	94			4/2		00	03	37
पालनपुर	सोहनगढ़	12	00	00	98		4/1		00	04	95
	कच्चा रास्ता	00	01	77			7/2		00	00	43
	10+11	00	18	35		पालनपुर	चितरासैनी	कच्चा रास्ता	00	01	19
	16	00	15	70			96		00	28	08
	सड़क	00	01	43			101		00	06	68
	17	00	15	92			कच्चा रास्ता		00	00	58
	8+9	00	06	18			104		00	06	27
	18	00	07	94			105		00	08	13
	कच्चा रास्ता	00	00	80			106		00	01	91
	19	00	17	26			108		00	10	06
	20	00	00	13			सड़क		00	02	38
	21+22	00	06	02			कच्चा रास्ता		00	01	73
	30+31	00	30	73			140		00	20	48
	34	00	11	34			139		00	12	78
	28+29	00	11	09			148/1		00	00	10
	36	00	03	29			148/2		00	10	60
	37	00	10	09			150		00	05	27
	38+45+49	00	05	75			151		00	29	89
	39+40+41	00	12	01		पालनपुर	कोटड़ा	67/2	00	03	54
	सरकारी भूमि	00	05	40			67/6		00	00	89
	कच्चा रास्ता	00	00	70			सड़क		00	05	48

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)	
पालनपुर	कोटड़ा	63/3	00	00	27	अमीरगढ़	घोलिया	253	00	10	82	
		कच्चा रास्ता	00	01	25			265	00	09	08	
		62	00	30	92			264	00	01	79	
		नाला	00	02	49			263	00	03	51	
		54/1	00	13	29			266	00	10	07	
		कच्चा रास्ता	00	01	38			272	00	12	81	
		53/1	00	06	98			271	00	15	80	
		53/2	00	21	48			274	00	05	20	
		नाला	00	03	69			276	00	10	11	
		47	00	22	12			277	00	04	85	
		48	00	02	06			283	00	01	94	
								282	00	09	89	
अमीरगढ़	राजपुरिया	9	00	06	51			279	00	09	82	
		4	00	09	59			280	00	20	35	
		5/1	00	08	14		कालीमाटी	58	00	04	58	
		5/2	00	10	53			कच्चा रास्ता	00	01	56	
		3	00	01	94			59	00	28	68	
	जैथी	98	00	18	39			कच्चा रास्ता	00	00	99	
		99	00	10	93			60	00	22	56	
		100	00	43	86			61	00	02	71	
		207	00	00	05			62	00	10	82	
		203	00	24	82			नाला	00	02	37	
		कच्चा रास्ता	00	01	86			83	00	04	32	
		204	00	01	68			84	00	04	62	
		202	00	14	27			85	00	10	55	
		199	00	21	99			88	00	00	58	
		198	00	12	82			87	00	11	79	
		190	00	14	58			नाला	00	01	83	
		189	00	08	17			धनपुरा	सरकारी भूमि	00	02	09
		188	00	06	65			56/1	00	04	84	
		95	02	94	00			नाला	00	00	99	
		84	00	06	49			57	00	06	64	
	इकबालगढ़	12	00	12	49			नाला	00	02	17	
		13	00	01	48			64	00	02	45	
		रेलवे	00	05	27			63	00	04	57	
		21/4	01	05	59			62	00	04	73	
		21/5	00	02	20			60	00	12	28	
	घोलिया	247	00	02	88			50	00	19	01	
		249	00	10	47			कच्चा रास्ता	00	00	43	
		250	00	10	53			6	00	02	45	
		251	00	06	97			40/1	00	11	80	
		252	00	09	63			40/2	00	18	67	

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
अमीरगढ़	धनपुरा	41	00	10	79	अमीरगढ़	खुनिया	नाला	00	02	46
		39	00	20	28			80	00	12	05
	कच्चा रास्ता		00	00	75			81	00	24	46
		38	00	14	32		कच्चा रास्ता		00	01	21
		37/2	00	06	79			83	00	07	14
		33	00	00	26		किडोतर	124	00	04	39
		37/1	00	01	22			145	00	00	10
		34	00	09	14			143	00	06	88
		35	00	01	08			नाला	00	00	63
	कच्चा रास्ता		00	00	40			125	00	06	44
		26	00	11	76			120	00	02	52
		25	00	05	75			119	00	10	42
	सड़क		00	01	82			127	00	02	81
		20	00	22	18			नाला	00	00	88
		19	00	16	34			117	00	12	81
	जोरापुरा	नाला	00	19	34			107	00	00	05
		29	00	00	63			नाला	00	11	80
		22	00	05	60			102	00	06	84
		21	00	07	74			100	00	21	07
		14	00	05	83			99	00	09	26
		13	00	05	10		अमीरगढ़	नहर	00	03	85
	नाला		00	02	29			28/2	00	14	43
		9	00	13	00			कच्चा रास्ता	00	03	05
	कच्चा रास्ता		00	00	62			26	00	96	19
		11	00	17	65			कच्चा रास्ता	00	01	94
	घंघु	69	00	02	16			कच्चा रास्ता	00	01	88
	खुनिया	13	00	00	30			कच्चा रास्ता	00	01	97
		14	00	14	78			14	00	17	24
		15	00	09	90			नहर	00	05	70
		16	00	07	89			नहर	00	01	60
		17	00	11	29			12	00	02	57
		18	00	05	69			13	00	12	37
		20/1	00	06	10		डूंगरपुरा	सड़क	00	02	18
		21	00	03	34			7	00	49	80
		28	00	07	19			6	00	13	46
		56	00	07	98			42	00	13	46
		57/1	00	06	37			43	00	12	94
		74	00	19	11			44	00	13	21
	नाला		00	09	60			45	00	12	15
		76	00	06	45			46	00	11	73
		107	00	00	05			47	00	11	32
		77	00	13	63						

(1)	(2)	(3)	(4)	(5)	(6)
अमीरगढ़	डूंगरपुरा	कच्चा रास्ता	00	00	89
		52	00	06	73
		53	00	05	26
		54	00	05	46
		कच्चा रास्ता	00	01	46
		56	00	16	42
		68	00	15	03
		69	00	00	98
		72	00	03	39
आवल		274	00	01	42
		265	00	24	60
		कच्चा रास्ता	00	00	70
		266	00	05	69
		नाला	00	01	97
		238	00	18	77
		236	00	10	38
		239	00	08	27
		240	00	22	86
		226	00	00	47

[फा. सं. आर-25011/20/2011-ओआर-1]

बी. के. दत्ता, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 10th October, 2011

S.O. 2876.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum crude a pipeline from Salaya in the State of Gujarat to Mathura in the State of Uttar Pradesh, (Under Salaya-Mathura Pipeline De-bottlenecking Project) should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which the copies of this notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user

therein or laying of the pipeline under the land, to Shri M G PARMAR, Competent Authority (Gujarat) Indian Oil Corporation Limited (Pipeline Division) Plot No - 10, Patel Society (Near IOC-Colony) Viramgam (District-Ahmadabad) Gujarat-382150.

SCHEDULE

District : Banaskantha			State : Gujarat		
Tehsil	Name of Village	Survey No./ Block No.	Area		
			Hect-are	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Wadgam	Sherpura	38	00	08	74
		328	00	28	64
			00	09	59
			00	07	68
			00	07	16
	Cart track	342	00	03	18
			00	17	15
			00	03	52
			00	25	24
			00	00	85
	Nala	399	00	00	60
			00	07	73
			00	11	22
			00	00	07
			00	15	05
Palanpur	Kanodar	300	00	02	67
		305	00	16	24
		299	00	00	76
		306	00	21	32
		297	00	02	69
	Jagana	349	00	07	80
		348	00	01	21
		307	00	09	53
		347	00	02	29
		311	00	06	55
	Umardasi River	312	00	00	90
		182	00	00	27
		180	00	07	38
		181/1	00	13	30
		SH-41	00	05	18
	Cart track	187	00	05	07
			00	23	43
			00	02	70

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
Palampur	Jagana	189/2	00	05	74	Palampur	Palampur	902	00	16	89
		189	00	17	54		Asphalted Road		00	02	14
		Cart track	00	02	53			819	00	08	24
		190	00	15	92			817	00	23	36
		Cart track	00	02	01			820	00	00	11
		214	00	15	56			829	00	55	87
		215	00	07	42			816	00	16	06
		220	00	13	60			860	00	01	48
		221	00	11	76			832	00	60	21
		222	00	11	02			855	00	04	63
		Road	00	03	88			851	00	42	00
		229+230	00	42	44			1333	00	38	12
		226	00	06	15			931	01	08	41
		228	00	08	73			NH-14	00	07	21
		237	00	09	84			Cart Track	00	07	59
		238	00	06	50			700	00	54	14
		240	00	15	74			701	00	16	67
		Cart track	00	01	88			703	00	11	98
		241	00	03	76			705	00	12	53
		Asphalted Road	00	02	86			706	00	39	22
		265	00	12	47			707	00	44	18
		264	00	24	78			692	00	22	91
		269	00	11	60			MDR Road	00	04	46
		268	00	10	67			477	00	25	96
		270	00	02	93			478	00	40	28
		Cart track	00	02	02			443	00	40	76
		285+286/1	00	54	16			444	00	05	15
		284	00	15	82			445	00	25	98
		311	00	07	43			447	00	35	88
		312	00	08	82			449	00	48	00
		313	00	28	33			448	00	00	13
Gataman	Cart track		00	02	35			Cart track	00	04	35
		03	00	15	75			435	00	45	62
Esbipura	Cart track		00	05	05			Road	00	05	98
		14	00	13	25			415	00	47	21
		16	00	38	17			350	00	61	80
		17	00	13	64			351	00	19	13
		Cart track	00	00	73			352	00	13	04
		4+5	00	42	95			353	00	03	35
		6	00	34	07			Road	00	04	60
Palampur		1026	00	26	28			346	00	05	24
		Cart track	00	03	62			347	00	43	31
		1021	00	12	38			333	00	36	39
		1022	00	11	42			Road	00	05	45
		Cart track	00	01	97			288	00	45	13
		905	00	22	00			289	00	10	28
		908	00	00	53			295	00	27	46
		900	00	04	46						
		904	00	02	57						

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
Palanpur	Asphalted	294	00	17	68	Palanpur	Varvadiya	17	00	02	11
		293	00	31	83			22+23	00	03	86
	Road	302	00	06	33		Khemana	52+53	00	09	26
		304	00	14	87		Malana	151+152+153	00	21	57
		305	00	22	72			150	00	16	90
		306	00	17	50			149	00	06	06
		307	00	08	42			146+148	00	25	67
		310	00	11	30		Hebathpur	58	00	46	57
			00	23	01		Cart track		00	02	00
	Akesan	95	00	00	22			16/1	00	07	99
		94	00	32	66			15	00	28	19
		93	00	18	37		Cart track		00	01	81
		91	00	01	20			14	00	30	75
		92	00	14	99		Cart track		00	00	90
	Nala		00	09	15			3	00	13	72
		66	00	00	48			4/4	00	00	05
		67	00	08	15			9	00	05	72
		70	00	14	33			8	00	04	68
		71	00	02	12			4/2	00	03	37
		72	00	18	65			4/1	00	04	95
	Road		00	02	57			7/2	00	00	43
		26	00	39	66		Chitrasani	Cart track	00	01	19
	Cart track		00	01	23			96	00	28	08
		25	00	23	95			101	00	06	68
	Railway		00	05	75		Cart track		00	00	58
		24	00	19	94			104	00	06	27
	Songadh	12	00	00	98			105	00	08	13
	Cart track		00	01	77			106	00	01	91
		10+11	00	18	35			108	00	10	06
		16	00	15	70		Road		00	02	38
	Road		00	01	43		Cart track		00	01	73
		17	00	15	92			140	00	20	48
		8+9	00	06	18			139	00	12	78
		18	00	07	94			148/1	00	00	10
	Cart track		00	00	80			148/2	00	10	60
		19	00	17	26			150	00	05	27
		20	00	00	13			151	00	29	89
		21+22	00	06	02		Kotada	67/2	00	03	54
		30+31	00	30	73			67/6	00	00	89
		34	00	11	34		Road		00	05	48
		28+29	00	11	09			63/3	00	00	27
		36	00	03	29		Cart track		00	01	25
		37	00	10	09			62	00	30	92
		38+45+49	00	05	75		Nala		00	02	49
		39+40+41	00	12	01			54/1	00	13	29
	Govt. Land		00	05	40		Cart track		00	01	38
	Cart track		00	00	70			53/1	00	06	98
	Varvadiya	20+21	00	18	75			53/2	00	21	48

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
Palanpur	Kotada	Nala	00	03	69	Amirgadh	Kalimati	Cart track	00	01	56
		47	00	22	12			59	00	28	68
		48	00	02	06			Cart track	00	00	99
Amirgadh	Rajpuria	9	00	06	51			60	00	22	56
		4	00	09	59			61	00	02	71
		5/1	00	08	14			62	00	10	82
		5/2	00	10	53			Nala	00	02	37
		3	00	01	94			83	00	04	32
	Jethi	98	00	18	39			84	00	04	62
		99	00	10	93			85	00	10	55
		100	00	43	86			88	00	00	58
		207	00	00	05			87	00	11	79
		203	00	24	82			Nala	00	01	83
		Cart track	00	01	86		Dhanpura	Govt. land	00	02	09
		204	00	01	68			56/1	00	04	84
		202	00	14	27			Nala	00	00	99
		199	00	21	99			57	00	06	64
		198	00	12	82			Nala	00	02	17
		190	00	14	58			64	00	02	45
		189	00	08	17			63	00	04	57
		188	00	06	65			62	00	04	73
		95	02	94	00			60	00	12	28
		84	00	06	49			50	00	19	01
	Iqbalgadh	12	00	12	49			Cart track	00	00	43
		13	00	01	48			6	00	02	45
		Railway	00	05	27			40/1	00	11	80
		21/4	01	05	59			40/2	00	18	67
		21/5	00	02	20			41	00	10	79
	Dholiya	247	00	02	88			39	00	20	28
		249	00	10	47			Cart track	00	00	75
		250	00	10	53			38	00	14	32
		251	00	06	97			37/2	00	06	79
		252	00	09	63			33	00	00	26
		253	00	10	82			37/1	00	01	22
		265	00	09	08			34	00	09	14
		264	00	01	79			35	00	01	08
		263	00	03	51			Cart track	00	00	40
		266	00	10	07			26	00	11	76
	Dholiya	272	00	12	81			25	00	05	75
		271	00	15	80			Road	00	01	82
		274	00	05	20			20	00	22	18
		276	00	10	11			19	00	16	34
		277	00	04	85		Jorapura	Nala	00	19	34
		283	00	01	94			29	00	00	63
		282	00	09	89			22	00	05	60
		279	00	09	82			21	00	07	74
		280	00	20	35			14	00	05	83
	Kalimati	58	00	04	58			13	00	05	10

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
A mirgadh Jorapura	Nala	00	02	29		Amirgadh Amirgadh	14	00	17	24	
	9	00	13	00		Canal	00	05	70		
	Cart track	00	00	62		Canal	00	01	60		
	11	00	17	65		12	00	02	57		
Amirgadh Ghanghu	69	00	02	16		13	00	12	37		
Amirgadh Khuniya	13	00	00	30		Amirgadh Dungarpura	Road	00	02	18	
	14	00	14	78		7	00	49	80		
	15	00	09	90		6	00	13	46		
	16	00	07	89		42	00	13	46		
	17	00	11	29		43	00	12	94		
	18	00	05	69		44	00	13	21		
	20/1	00	06	10		45	00	12	15		
	21	00	03	34		46	00	11	73		
	28	00	07	19		47	00	11	32		
	56	00	07	98		Cart track	00	00	89		
	57/1	00	06	37		52	00	05	73		
	74	00	19	11		53	00	05	26		
	Nala	00	09	60		54	00	05	46		
	76	00	06	45		Cart track	00	01	46		
	107	00	00	05		56	00	16	42		
	77	00	13	63		68	00	15	03		
	Nala	00	02	46		69	00	00	98		
	80	00	12	05		72	00	03	39		
	81	00	24	46		Amirgadh Awal	274	00	01	42	
	Cart track	00	01	21		265	00	24	60		
	83	00	07	14		Cart track	00	00	70		
Amirgadh Kidotar	124	00	04	59		266	00	05	69		
	145	00	00	10		Nala	00	01	97		
	143	00	06	88		238	00	18	77		
	Nala	00	00	63		236	00	10	38		
	125	00	06	44		239	00	08	27		
	120	00	02	52		240	00	22	86		
	119	00	10	42		226	00	00	47		
	127	00	02	81							
	Nala	00	00	88							
	117	00	12	81							
	107	00	00	05							
	Nala	00	11	80							
	102	00	06	84							
	100	00	21	07							
	99	00	09	26							
Amirgadh Amirgadh	Canal	00	03	85							
	28/2	00	14	43							
	Cart track	00	03	05							
	26	00	96	19							
	Cart track	00	01	94							
	Cart track	00	01	88							
	Cart track	00	01	97							

[F.No. R-25011/20/201-OR-I]

B. K. DATTA, Under Secy.

CORRIGENDUM

New Delhi, the 10th October, 2011

S.O. 2877.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas published vide S.O. 972 dated 06 April, 2011 published in the Gazette of India dated 09 April, 2011 as under, namely;

In the schedule at page no. 2890 against village Kiwarli, in 35th line, column no. 3 in place "956" the figure "965" shall be substituted.

[F.No. R-25011/10/2011-OR-I]

B. K. DATTA, Under Secy.

नई दिल्ली, 13 अक्टूबर, 2011

का.आ. 2878.—भारत सरकार ने जनहित में कर्नाटक राज्य में मंगलूर पोर्ट से मंगलूर केवर्न पाइपलाइन द्वारा कच्चे तेल का परिवहन आवश्यक माना है। मंगलूर, डी. के. जिले के आइ.एस.पी. आर.एल. पाइपलाइन लैंड फॉल पॉइंट एन.एम.पी.टी. के करीब से मंगलूर केवर्न तक आइ. एस. पी. आर. एल. द्वारा मंगलूर तालुक तथा जिले डी. के. में प्रस्तावित भंडारण टर्मिनल के लिए पाइपलाइन बिछाई जाएगी।

और, भारत सरकार का ऐसा मानना है कि उक्त कथित पाइपलाइन बिछाने के उद्देश्य के लिए इस अधिसूचना की संलग्न अनुसूची में वर्णित भूमि जिससे प्रस्तावित पाइपलाइन गुजरती है, उस भूमि के उपयोग का अधिकार प्राप्त करना आवश्यक है।

अतः अब, भारत सरकार पेट्रोलियम एवं पाइपलाइन (भूमि के उपयोग के अधिकार के अर्जन) अधिनियम, 1962 (1962 का 50) के अनुसरण में कृत्यों के निर्वहन की घोषणा करता है।

कोई भी व्यक्ति जो जिस अनुसूची में दर्शायी गई भूमि के बारे में आपत्ति दर्ज कराने में इच्छुक हो, धारा 3 की उप-धारा (1) के अन्तर्गत जारी अधिसूचना तथा भारत के राजपत्र में सामान्य जनता के लिए प्रकाशित तिथि के 21 दिन के अन्दर आइ. एस. पी. आर. एल. पाइपलाइन लैंड फॉल पॉइंट एन.एम.पी.टी. के करीब से मंगलूर केवर्न तक बिछाने के बारे में सक्षम प्राधिकारी के.आई.ए.डि.बी., बाइकपाडी मंगलूर-575001 कर्नाटक को लिखित में दर्ज करा दे।

अनुसूची

क्र. सं.	जिला	तहसील	ग्राम	सर्वे संके	क्षेत्र एकड़ सेन्ट
(1)	(2)	(3)	(4)	(5)	(6)
1	दक्खिन कन्नडा	मंगलूर	तन्निर बावी	27/7A	00.00.32
				27/7B	00.09.98
				27/8B	00.25.18
				27/9	00.14.41
				27/6	00.39.63
				31/15A	00.00.25
				31/15B	00.00.49
				31/8	00.02.37
				31/7A	00.05.36
				31/6A	00.23.45
				31/13	00.03.43
				31/12	00.03.43
				31/1A	00.16.73
				28/3	00.03.43
				28/7	00.02.99
				28/2A	00.02.64

(1)	(2)	(3)	(4)	(5)	(6)
1	दक्खिन कन्नडा	मंगलूर	तन्निर बावी	31/1B	00.06.67
				31/17	00.04.30
				30	00.01.26
				28/2B	00.03.41
				28/20	00.06.69
				60/2	01.70.94
				28/19	00.01.56
				60/1	00.26.04
				29	00.09.02
कुल					3.83.98 एकड़
2	दक्खिन कन्नडा	मंगलूर	57 पदुकोडी	67/4	0.27.53
				67/3	0.15.44
				69/2	0.05.51
				69/1	0.12.23
				66/8	0.02.57
				66/7	0.29.33
				64/16	0.00.27
				66/6	0.10.23
कुल					1.03.11 एकड़
3	दक्खिन कन्नडा	मंगलूर	53 बैकाम्पाडी	2/1	2.06.35
				2/2	
				2/3	
				2/4	
				2/5P1	
				2/5P2	
				2/6P1	
				2/6P2	
				2/7P1	
				2/7P2	
				2/8	
				2/9	
				2/10	
				2/11P1	
				2/11P2	
				2/12P1	
				2/12P2	
				2/13	
				2/14	
				2/15	
				2/16A1	
				2/16A2	
				2/16B	

[illegible]

(1)	(2)	(3)	(4)	(5)	(6)
4.	दक्षिण कन्नडा	मंगलूर	62 तोकुर	20/3	0.30.02
				20/6P1	0.11.74
				20/6P2	0.11.74
				20/5BP	0.04.42
				20/5BP	
				20/5A	0.12.73
				18/1P1	0.08.72
				18/1P2	0.08.72
				18/1	0.13.27
				18/2	0.26.64
				18/3	0.00.37
				16/2B	0.02.59
				16/1	0.02.17
				16/1P1	0.51.84
				16/1P2	
				17/2P1	0.32.32
				17/2P2	
				17/3	0.17.67
				63/1	0.01.48
				63/2	
				63/3P1	
				63/3P2	
				63/4AP	
				63/4AP	
				63/4BP1	
				63/4BP1	
				63/5P1	
				63/5P2	
				63/11	
				64/1	0.12.65
				64/3P1	0.00.25
				17/4	0.13.07
				17/5	0.16.18
				9/1	0.03.31
				10/8P1	0.11.76
				10/8P2	
				10/9P1	0.00.74
				10/9P2	
				10/10	0.03.46
				10/3P1	0.35.58
				10/3P2	
				10/3P3	
				कुल	10.68.68 एकड़

[सं. पी-25011/1/2009-आपूर्ति]
जितेन्द्र कुमार सिंह, अवर सचिव

New Delhi, the 13th October, 2011

S.O. 2878.—Whereas it appears to Government of India that it is necessary in public interest that for transportation of crude oil through land fall point near N.M.P.T. to Mangalore Cavern Pipe line with in the Territory of Karnataka should be laid by ISPRL.

And, whereas it appears to Government of India that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification.

Now, therefore, in exercise of powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), Government of India hereby declares its intention to acquire the Right of User therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date of which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public object in writing to the laying of the ISPRL pipeline from land fall point near NMPT to Mangalore Cavern under the land to Competent Authority, KIADB, Baikampady, Mangalore 575011, Karnataka.

SCHEDULE

Sl. No.	District	Tehsil	Village	Survey Area	
				No.	Acre Cent
1	2	3	4	5	6
1	Dakshina Kannada	Mangalore	Taniru Bavi	27/7A	00.00.32
				27/7B	00.09.98
				27/8B	00.25.18
				27/9	00.14.41
				27/6	00.39.63
				31/15A	00.00.25
				31/15B	00.00.49
				31/8	00.02.37
				31/7A	00.05.36
				31/6A	00.23.45
				31/13	00.03.43
				31/12	00.03.43
				31/1A	00.16.73
				28/3	00.03.43
				28/7	00.02.99
				28/2A	00.02.64
				31/1B	00.06.67
				31/17	00.04.30
				30	00.01.26
				28/2B	00.03.41

1	2	3	4	5	6	1	2	3	4	5	6
1	Dakshina Kannada	Mangalore	Taniru Bavi	28/20 60/2 28/19 60/1 29 Total	00.06.69 01.70.94 00.01.56 00.26.04 00.09.02 3.83.98					2/19 2/20P 2/20P 2/21 2/22 2/23 2/24P 2/24P	2.06.35
2	Dakshina Kannada	Mangalore	57 Padukodi	67/4 67/3 69/2 69/1 66/8 66/7 64/16 66/6 Total	0.27.53 0.15.44 0.05.51 0.12.23 0.02.57 0.29.33 0.00.27 0.10.23 1.03.11					3/1 3/2 3/3 3/4 3/5 3/6 3/7 3/8P1 3/8P2 3/9 3/10 3/11 3/12 3/13 3/14 3/15 3/16 3/17 3/18 3/19P 3/19P 3/20A 3/21P 3/21P 4/5 4/8 4/9 4/1 5/2P1 5/2P2 5/2P3 5/2P4 5/2P5 7/3A 7/7BP1	01.31.43
3	Dakshina Kannada	Mangalore	53 Baika- mpady	2/1 2/2 2/3 2/4 2/5P1 2/5P2 2/6P1 2/6P2 2/7P1 2/7P2 2/8 2/9 2/10 2/11P1 21/11P2 2/12P1 2/12P2 2/13 2/14 2/15 2/16A1 2/16A2 2/16B 2/17P1 2/17P2 2/17P3 2/18P1 2/18P2	2.06.35						

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 15 सितम्बर, 2011

का.आ. 2879.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, धनबाद नं.-1, के पंचाट (संदर्भ संख्या 20/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2011 को प्राप्त हुआ था।

[सं. एल-20012/21/2008-आई आर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 15th September, 2011

S.O. 2879.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2008) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 15-9-2011.

[No. L-20012/21/2008-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD**

In the matter of a reference U/s. 10 (1)(d) of the I.D. Act, 1947

Reference No. 20 of 2008

Parties: Employers in relation to the management of E. J Area of M/s. BCCL.

And

Their Workmen

Present : Shri H.M. Singh, Presiding Officer**APPEARANCES:**

For the Employers : Shri D. K. Verma, Advocate

For the Workmen : Shri K. N. Singh, Vice- President, Janta Mazdoor Sangh.

State : Jharkhand : Industry : Coal

Dated, 1-9-2011

AWARD

By Order No. L-20012/21/2008-IR (CM-I) dated 28-4-2008, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Bhowra (N) UG Mines of M/s. BCCL in dismissing Sh. Sunil Bouri, M/Loader from the services of the company w.e.f. 18-4-2008 is legal and justified? If not, to what relief is the concerned workman entitled?”

2. In this reference case on 7-4-2011 a petition was filed on behalf of the concerned workman, Sunil Bouri, duly signed by him, stating therein that the claim has already been settled in between the management and the Union. In such circumstances, it has been prayed to pass an order allowing to withdrew the claim made on behalf of the workman. It, therefore, appears that there exists no dispute between the parties.

3. Accordingly, I render a ‘No Dispute’ Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2011

का.आ. 2880.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, धनबाद नं.-2, के पंचाट (संदर्भ संख्या 43/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2011 को प्राप्त हुआ था।

[सं. एल-20012/78/2007-आई आर (सीएम-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 15th September, 2011

S.O. 2880 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2007) of the Central Government Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 15-9-2011.

[No. L-20012/78/2007-IR (CM-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD****Present :** Shri Kishri Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947,

Reference No. 43 of 2007

Parties : Employers in relation to the management of Bastacolla Area of M/s. BCCL and their Workmen.

APPEARANCES:

On behalf of the workmen : None
 On behalf of the employers : Mr. D. K. Verma,
 Advocate.

State : Jharkhand : Industry : Coal
 Dated, Dhanbad, the 1st September, 2011

ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/78/2007-IR (CM-I)), dated the 9th August, 2007.

SCHEDULE

“Whether the action of the Management of Kuya Colliery of M/s. BCCL in denying regularization as Magazine Clerk to Shri Rama Shankar Mahato, Spray Mazdoor, is justified and legal? If not, to what relief is the concerned workman entitled and from which date?”

2. The present reference relates to the issue if the action of the management of Kuya Colliery of M/s. BCCL in denying regularisation as Magazine Clerk to Shri Rama Shankar Mahato, Spray Mazdoor is justified and legal.

3. Perusal of the case record clearly reveals that none represented the workmen by the Union concerned nor the Written Statement filed on behalf of the workman, despite the registered notices dt. 31-12-10 and show cause notice dt. 27-4-11 to the Union concerned, Whereas Mr. D. K. Verma, the Ld. Advocate for the management remained all along present. It is also apparent from the conduct of the representative Union of the workmen that he is not interested to pursue the case pending for filling Written Statement on behalf of the workmen ab initio i.e. since 9-1-2008, though ample opportunities including the last chance was also given to the Union concerned. Under these circumstances, it is useless to proceed with the case for infinite. Hence, the case is closed and order is passed accordingly.

KISHORI RAM, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2011

का.आ. 2881.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, धनबाद नं.-2, के पंचाट (संदर्भ संख्या 42/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2011 को प्राप्त हुआ था।

[सं. एल-20012/77/2007-आई आर (सीएम-1)]
 डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 15th September, 2011

S.O. 2881.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2007) of the Central Government Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 15-9-2011.

[No. L-20012/77/2007-IR (CM-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD**

Present : Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section
 10(1) (d) of the I.D. Act 1947

Reference No. 42 of 2007

Parties : Employers in relation to the management of
 Bastacolla Area of M/s. BCCL and their
 workmen.

APPEARANCES:

On behalf of the workman : None
 On behalf of the employers : Mr. D. K. Verma,
 Advocate

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 1st September, 2011

ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/77/2007-IR (CM-I)), dated the 9th August, 2007.

SCHEDULE

“Whether the action of the Management of Kuya Colliery of M/s. BCCL in denying regularization as Valve Man to Shri Hemlal Roy, Fitter Helper, is justified and legal? If not, to what relief is the workman concerned entitled and from which date?”

2. Present reference relates to the issue if the action of the management of Kuya Colliery of M/s. BCCL in denying regularisation as Valve Man to Shri Hemlal Roy, the Fitter Helper is justified.

3. In this case, the record clearly reveals non-representation of the Union representative concerned as well as the workman nor any Written Statement has been

filed till to day inspite of registered notices dated 23-11-2010 and registered show cause notice dtd. 27-4-2011 to the Secretary of the Union concerned for it. Such disinterestedness of the Union/workman clearly reflects from their conduct showing non-sensitive to the cause of the workman, though last chance for filling W. S. in behalf of the workman was also given on 18-2-2011, yet has not been filed on his behalf, which has been pending ab initio i.e. since 9-1-2008. Under the circumstances, I find proceeding for the case for uncertainty is useless. Hence it is closed and accordingly the order is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2011

का.आ. 2882.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. एवं के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, धनबाद नं.-2, के पंचाट (संदर्भ संख्या 107/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2011 को प्राप्त हुआ था।

[सं. एल-20012/159/2000-आई आर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 15th September, 2011

S.O. 2882.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 107/2000) of the Central Government Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 15-9-2011.

[No. L-20012/159/2000-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2), AT DHANBAD

PRESENT : Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1) (d) of the I.D. Act, 1947

Reference No. 107 of 2000

Parties : Employers in relation to the management of
M/s. BCCL and their workman.

APPEARANCES :

On behalf of the workman	:	None
On behalf of the employers	:	Mr. B. M. Prasad, Advocate
State : Jharkhand	:	Industry : Coal

Dated, Dhanbad, the 5th September, 2011

ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/159/2000- IR (C-I)), dated , the 18th September, 2000.

SCHEDULE

“Whether the demand of the Union to regularise Sri Moazzama Alia Mahbuby as Sand Munshi is proper and justified ? If so, to what relief is the concerned workman entitled and from what date ?”

2. None represented the workman nor any witness produced for the workman despite several registered notices/show cause to the Union representative concerned. Mr. B. M. Prasad, the Ld. Counsel for the management was present on 24-8-2011.

3. From the perusal of the case record, I find the case has been pending for the evidence of workman since 2-3-2005, and despite the registered notices dtd. 12-11-2010, and show cause notice dtd. 31-3-2011, not a single witness produced for evidence on behalf of the workman. This is the oldest case of the year 2000 relating to the demand of the Union for the regularisation of workman Shri Moazzam Ali Mahbuby as Sand Munshi. The conduct of the representative Union as well as the workman so far reveals their disinterestedness to proceed with the case. Under these circumstances, hence the case is closed and accordingly order is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2011

का.आ. 2883.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. एवं के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, धनबाद नं.-2 के पंचाट (संदर्भ संख्या 69/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2011 को प्राप्त हुआ था।

[सं. एल-20012/41/1997-आई आर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 15th September, 2011

S.O. 2883.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/1998) of the Central Government Industrial Tribunal-cum-Labour Court-2, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 15-9-2011.

[No. L-20012/41/1997-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2), AT DHANBAD****Present :** Shri Kishori Ram, Presiding Officer.In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.**Reference No. 69 of 1998****Parties :** Employers in relation to the management of
M/s. BCCL and their workmen.**APPEARANCES :**

On behalf of the workmen : None

On behalf of the employers : Mr. B.M. Prasad,
Advocate.

State : Jharkhand : Industry : Coal.

Dated, Dhanbad, the 5th September, 2011.

ORDER

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/41/97- IR (Coal-I), dated the 10th March, 1998.

SCHEDULE

“Whether the demand of the Union for the regularisation of the services of S/Shri Khadu Charan Mahato and three others (As shown in an Annexure) below is justified ? If so, to what relief are the concerned workmen entitled ?”

ANNEXURE

1. Khadu Charan Mahato working as Bill Clerk since Feb., 1991
2. Ajit Kumar Lala -do- 6-7-1991
3. Patia Mahato working as Leave Clerk since 14-6-1992
4. Hiralal Mahato working as Bill Clerk since June 1992.

2. The present reference relates to the demand of the Union concerned for the regularisation of the services of all Shri Khadu Charan Mahato and three others, namely, Ajit Kumar Lala, Patia Mahato and Hiralal Mahato workmen as Bill Clerk, Leave Clerk and Bill Clerk respectively with effect from the period as specified in its annexure.

3. Perused the case record. I find that this is the eldest case of the year 1998 which has been pending for the evidence of workmen since 2-9-2005. Since then despite the registered notices and show cause to the Union and several times last chances for it, not a single witness on behalf of the workmen has been produced on 25-8-2011, though Mr. B.M. Prasad, the Ld. Advocate for the management has all along been present in the case. Thus from the conduct of the representative Union concerned as well as the workmen, it appears that they are not interested to pursue with the case for its finality. Under

the circumstances, it is useless to proceed with it for uncertainty and moreover this is the oldest case. Hence, the case is closed and accordingly order is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2011

का.आ. 2884.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. एवं के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, धनबाद नं.-1, के पंचाट (संदर्भ संख्या 06/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2011 को प्राप्त हुआ था।

[सं. एल-20012/481/2001-आई आर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 15th September, 2011

S.O. 2884.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2002) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 15-9-2011.

[No. L-20012/481/2001-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 1, DHANBAD**

In the matter of a reference U/s 10(1)(d)(2A) of I.D. Act.

Reference No. 6 of 2002**Parties :** Employers in relation to the management of
Eastern Washery Zone, Sudamdih Area of M/s.
BCCL**AND****Their Workmen.****Present :** Shri H. M. SINGH, Presiding Officer**APPEARANCES :**

For the Employers : Shri S. N. Sinha, Advocate.
For the Workmen : Shri D. Mukherjee,
Secretary, Bihar Colliery
Kamgar Union.

State : Jharkhand.

Industry : Coal

Dated, the 6th September, 2011.

AWARD

By Order No. L-20012/481/2001-IR (C-I) dated 10-1-2002 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether General Manager, Sudamdih Area, Eastern Washery Zone BCCL is justified in Denying regularisation of Smt. Minoti Deogharia as Clerk? If not, to what relief is the workman entitled and from what date?”

2. The case of the concerned workman is that Smt. Minoti Deogharia is a permanent employee of Eastern Washery Zone, Sudamdih Area of BCCL and posted in Area Finance Deptt. She got her employment in place of her deceased husband in the year 1985 and working with unblemished record of service. The concerned workman is a matriculate and she has been continuously working as Clerk, but her designation is Peon. She represented before the management for her regularisation as a clerk. A departmental note-sheet was made before her regarding this and also proceeds for the same.

In spite of repeated representations the management did not regularise her as clerk. Ultimately the union raised an industrial dispute before the ALC(C), Dhanbad but the same ended in failure due to the adamant attitude of the management. The Govt. of India, Ministry of Labour, referred the dispute for adjudication to this Hon'ble Tribunal. The action of the management of Sudamdih Area of M/s. BCCL in not regularising the concerned workman as clerk was neither justified nor legal and proper.

It has been prayed before this Tribunal to answer the reference in favour of the workman by directing the management to regularise her as clerk with retrospective effect.

3. The case of the management is that the concerned workman, Smt. Minoti Deogharia, is an employee of Eastern Washery Zone, Sudamdih and appointed in the year 1985 in lieu of her deceased husband under provision of NCWA. At the time of initial appointment she was designated as Peon (Trainee) Category-I, subsequently designated as Peon Grade w.e.f. 1-12-88. Her service record was opened and her qualification has been mentioned as road upto Class-Xth. She also put her signature in Service record. In the service excerpt she has indicated her qualification as Class-Xth. In service excerpt she did not raise any objection as indicated in Column-14 of Service Excerpt. As per norms in BCCL, there is no provision for diversion of PR/TR and other employee to deploy in ministerial Grade. Subsequently she has submitted a certificate issued by Deoghar Bidhyapith which is not recognised in BCCL, as per Circular No. BCCL/PA-V/Circular 198 dated 12/13-2-98 issued by Dy. C.P.M. (NEE). As per Cadre Scheme the selection to workmen into clerical Cadre can only be made on the recommendation of Selection Committee duly constituted by the Cadre Controlling Authority. No local officer has been empowered to put a time-rated worker into clerical cadre on the regular basis. The concerned workman has not been allowed to work as clerk and her allegation is baseless.

It has been prayed that the Hon'ble Tribunal be pleased to pass an award holding that the concerned workman is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of same of the paragraphs of each other's written statement.

5. The concerned workman has produced himself as WW-1 and he has proved documents as Exts. W-1 and W-4.

The management has produced MW-1, Surendra Prasad, who has proved documents as Exts. M-1 and M-2.

6. Main argument on behalf of the concerned workman is that the concerned workman has been working continuously since 1985 and she has been appointed and posted in Finance Department. She was directed to work by the competent authority. It has also been argued that a note-sheet was initiated that she should be regularised as clerk by the management because she has acquired matriculation certificate. The above document, note-sheet is Ext. W-1 and that note-sheet is signed by Dy. C.F.M. (EJA), Ext. W-2. She has proved Ext. W-3 regarding regularisation of PR/TR employees engaged in clerical job. Letter has been written to G. M. (P), BCCL by Dy. C. P. M., Sudamdih Area, Ext. W-4. But the management is not regularising and doing justice to her.

The management has argued that the concerned workman can not be regularised as clerk as she is not matriculate. It has also been argued that a person appointed as Peon in Category-I cannot be regularised in the job of clerk without D.P.C.

In this respect the concerned workman has stated in cross-examination that in 1987, I passed Class-IX. At the time of my appointment I was 9th Pass, which may show that she passed 9th class examination on which basis she claims clerical cadre.

In this respect management's circular dated 12/13-2-98 being No. BCCL/PA/V/Circular 196 shows that it has been issued by the management's Headquarter that the Hindi Bidhapat Deoghar examination certificate is not to be treated as equivalent of full fledged certificate. So, on this basis the concerned workman cannot claim that she has acquired minimum qualification for clerical job because as per Cadre Scheme of the management matric or equivalent of Board examination is necessary. She has not filed any certificate of High School Examination which may show that she acquired qualification to work as Clerk Grade-III. There is order of the management which has been filed that she has been ordered to work as Clerk in Finance Department. Only work was taken from him does not make any ground for regularisation as Clerk when she is Peon. Only on the basis of note-sheet she can not be regularised as Clerk Grade-III.

7. In the result, I hold that the action of management of Sudamdih Area, Eastern Washery Zone, BCCL in denying regularisation of Smt. Minoti Deogharia as Clerk is justified and hence the concerned workman is not entitled to get any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2011

का.आ. 2885.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय धनबाद नं.-1, के पंचाट (संदर्भ संख्या 198/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2011 को प्राप्त हुआ था।

[सं. एल-20012/253/1998-आई आर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 15th September, 2011

S.O. 2885.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 198/2001) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 15-9-2011.

[No. L-20012/253/1998-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, AT DHANBAD

In the matter of a reference U/s. 10(1) (d) (2A) of I.D. Act.

Reference No. 198 of 2001

Parties : Employers in relation to the management of Bararee Colliery of M/s. BCCL.

AND

Their workmen.

Present : Shri H. M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate.

For the Workman : Shri B. N. Singh, Advocate.

State : Jharkhand. : Industry : Coal.

Dated : 7-9-2011.

AWARD

By Order No.L-20012/253/98-IR (C-I) dated 18-9-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the I.D.

Act, 1947 referred the following dispute for adjudication to this Tribunal :

“Whether the demand of Janta Shramik Sangh from the management of Bararee Colliery of M/s. BCCL that Sri Anand Mahato should be regularised as Punch Man/Munshi w.e.f. 6-11-91 is legal and justified? If so, what relief the workman is entitled?”

2. The case of the concerned workman is that he was initially appointed as Miner/Loader and posted at Lakshmi Project also known as OCF of Bararee Colliery. He was a matriculate and as such after some time he was directed to work as Punchman/Munshi as per requirement of the management. After issuance of Office Order dated 21-5-92, 3 persons including the concerned workmen were directed to make their respective attendance under H.T.K. of Bararee Colliery vide office order dated 25-5-92. After working continuously as Punchman/Munshi for three years putting in attendance respectively of 197 days, 271 days and 244 days during 1992, 1993 and 1994, he represented before the management for his regularisation as Punchman/Munshi but the management did not do so. Thereafter, the union on behalf of the concerned workman raised an industrial dispute before the A.L.C.(C), Dhanbad which ended in failure. Ultimately, the dispute has been referred to this Hon'ble Tribunal for adjudication.

It has been prayed that this Hon'ble Tribunal be pleased to pass an award in favour of the workman by directing the management to regularise the concerned workman as Punchman/Munshi w.e.f. 6-11-91.

3. The Case of the management is that the concerned workman was appointed as a Machine Coal Loader (M.C.L.) on 29-3-1988 from the quota of land looser and subsequently he was regularised as a General Mazdoor w.e.f. 15-1-96 in Category-I vide office order dated 3/6-1-96 and was deployed to work at Laxmi Open Cast Project. When the Project was closed the man power were transferred to other Unit/Project of Lodna Area. On the request of the workman he was detained at Bararee colliery and was deployed to take up the job in the underground. Later on he was regularised in the post of Pump Operator in Category-III vide office order dated 29-8-99 and since then he is working as a Pump Operator. There is no post available in Bararee Colliery as a Punch Man. The Union is demanding regularisation of the workman concerned as a Punch Man/Munshi. The post of Munshi is a clerical post and the promotion of any workman in the Clerical Cadre is being done only on recommendation of the Departmental Promotion Committee after approval of the Cadre Controlling Authority by giving equal opportunity to all eligible candidates. if the vacancy exists.

It has been prayed that the Hon'ble Tribunal be pleased to hold that the demand of the union is neither legal nor justified and the concerned workman is not entitled for any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The concerned workman has produced WW-1, Anand Mahato and proved documents as Exts. W-1 and W-1/1.

The management has produced MW-1, T.S.G. Rao, who has proved documents as Exts. M-1 to M-5.

6. Main argument advanced on behalf of the concerned workman is that he is doing the job of Punchman/Munshi since 6-11-91 but the management is not regularising him.

On behalf of the management it has been argued that there is no post of Punchman/Munshi in Bararee Colliery on which post the concerned workman can be regularised. The concerned workman was appointed. He was appointed under land looser Scheme as a Machine Coal Loader. Later on he was regularised in Category-I as General Mazdoor and after that he was regularised in Pump Operator in Category-III, as per Ext. M-3. His demand is not justified.

7. In this respect the concerned workman has not filed any document to show that he was authorised to work as Punchman/Munshi and doing the same job.

In this respect the concerned workman in his cross-examination at page 2 stated that At Bararee Colliery. I am working as Pump Operator and I am getting the wages of Pump Operator in Category-III. I have been promoted from Category-I to Category-III. There is no designation in the Colliery as Punchman. There is designation of Tripman in the Colliery. It is true that in Open Case mine there is no post of Munshi. It is true that in the Office order there is no mention that I had been appointed as Punchman/Munshi.

This statement shows that he was never appointed as Punchman/Munshi and there is no clerical post on which he can be regularised. Moreover, the post is filled through D.P.C. after approval of the Cadre Controlling Authority. The statement of the concerned workman shows that he was never appointed as Punchman/Munshi, which is clerical post, on which post he can be regularised. he was regularised as a General Mazdoor in Category-I and thereafter he was regularised in Pump-Operator in Cat.-III and since then he is working as a Pump-Operator.

8. Considering the above facts and circumstances, I hold that the demand of Janta Shramik Sangh from the management of Bararee Colliery of M/s. BCCL that Sri Anand Mahato should be regularised as Punchman/Munshi w.e.f. 6-11-1991 is not legal and not justified.

Accordingly, the concerned workman is not entitled to get any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2011

का.आ. 2886.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद नं.-1, के पंचाट (संदर्भ संख्या 04/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2011 को प्राप्त हुआ था।

[सं. एल-20012/157/2005-आई आर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 15th September, 2011

S.O. 2886.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2005) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL, and their workman, which was received by the Central Government on 15-9-2011.

[No. L-20012/157/2005-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, DHANBAD

In the matter of a reference U/S. 10(1) (d)(2A) of I.D. Act.

Reference No. 4 of 2005

Parties: Employers in relation to the management of Religara Colliery of M/s. CCL.

AND

Their workmen.

Present : Shri H. M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate.

For the Workmen : Shri Dhaneshwar Turi
Branch Secretary, BCKU,
Religara Branch.

State : Jharkhand. : Industry : Coal.

Dated : 5-9-2001.

AWARD

By Order No.L-20012/157/2005-IR (C-I) dated 15-12-2004 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause

(d) of sub-sec. (1) and sub-sec. (2A) of Section 10 of the I.D. Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the demand of Bihar Colliery Kamgar Union from the management of Religara Colliery of M/s. CCL for proper regularisation and fixation of wages in respect of S/Shri Nikunji Lal and 63 others (as per list) time rated workers taking into account the category in which they were working and the wages being paid to them before such regularisation is legal and justified? If so, to what relief are the concerned workmen entitled and from what date?”

2. On 3-2-2011 Shri Dhaneshwar Turi, Branch Secretary, Bihar Colliery Kamgar Union, Religara Branch, appearing on behalf of the concerned workmen filed a petition stating therein that the concerned workmen are not interested to contest the case and desired to withdraw the dispute from this Tribunal.

In view of the prayer made on behalf of the concerned workmen, I render a ‘No Dispute’ Award in the present industrial dispute.

H. M. SINGH, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2011

का.आ. 2887.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 288/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-22012/124/2000-आई आर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 19th September, 2011

S.O. 2887.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 288/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL, and their workman, which was received by the Central Government on 19-9-2011.

[No. L-22012/124/2000-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/288/2000 Date: 8-09-2011

Party No. 1 The Sub Area Manager,
Hindustan Lalpeth Opencast Sub Area of
WCL, PO: Lalpeth, Distt. Chandrapur.

Versus

Party No. 2 The Secretary,
National Colliery Mazdoor Congress,
Dr. Ambedkar Nagar, Ballarpur,
PO: Ballarpur, Distt. Chandrapur (MS)

AWARD

(Dated : 08th September, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Sub Area Manager, WCL and their 13 workmen as mentioned below, for adjudication, as per letter No. L-22012/124/2000-IR (CM-II) dated 20/21-09-2000, with the following schedule :—

“Whether the action of the management, namely, Sub Area Manager, Hindustan Lalpeth Underground Sub Area of WCL, PO Lalpeth, Distt. Chandrapur in not regularizing 13 workmen (List enclosed) as Security Guards, is legal, proper and justified? If not, to what relief to the workmen are entitled and from which date?”

A List of the Workmen of this dispute

1. Roda Odel
2. Shri Tatepelli Raiyamallu
3. Shri Rajmal Pentaiah
4. Shri Namdeo Maraskole
5. Shri Katwaru Dwarka
6. Shri Urkuda Pandurang Nimgade
7. Shri Nimal Mondel Jogendernath
8. Shri Chantala Pochem Chandraiya
9. Shri Durgaiyah Mallaiyah
10. Shri Dasarapu Pochem Ankus
11. Shri Sudhakar Ganpat Watekar
12. Shri Bhandari Rajaiyath Biraiyah

13. Shri Singareni Mundi.

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union, National Colliery Mazdoor Congress ("the Union" in short) filed the statement of claim and the management of W.C.L. ("party no. 1" in short) filed the written statement.

The case of the workmen as projected by the union in the statement of claim is that the thirteen workmen are permanent workmen and they have put in continuous service as security guards for 10-12 years and the workman Singareni Mundi is also known as Komraya Komraya and all the thirteen workmen were appointed long back in different categories and the workmen namely Roda Odel, Rajmal Pentaiyah, Urkudu Pandurang Nimgade, Chantala Pochem Chandraiya, Wasarapu Pochem Ankus, Bhandari Rajaiyath Biraiyan and Singareni Mundi were appointed as coal filler/loaders in piece rated group VA, but they are being paid even less than their original group wages and their service conditions were arbitrarily changed, without following the provisions of Section 9A of the Act and the said seven workmen have been protesting to restore their basic as well as total emoluments with proper designation but party no. 1 is not paying any had to the same and in spite of the settlement between the management of WCL and their workman on 2-11-1992 for protection of the wages of the piece rated workers, the party no. 1 did not protect the wages of the said seven workmen. It is further pleaded by the union that all the 13 workmen are working continuously as security guards for last 10-12 years but they have not been regularized as security guards and are also not being paid proper wages as N.C.W.A., for the work performed by them and the attendance registers in regard to the 13 workmen working as security guards are with the management and in the charge sheet submitted against Chintala Pocham and warning letter given to Rajmak Penta, they have been described as "Acting Chowkidar" and workman, Roda Odel was charge sheeted for alleged negligence of duty as security guard vide reference no. 13 dated 12-11-1999 and as such, they are entitled to be regularized as security guard.

Prayer has been made by the union to regularize the 13 workmen as security guards with proper scale of pay and grade pay w.e.f. 1-1-1992 with full back wages and consequential benefits.

3. The party no. 1 in the written statement has pleaded inter-alia that the union is not a union of the workmen of Hindustan Lalpeth Colliery and as such, it is not authorized or competent to raise the industrial dispute. It is further pleaded by the party no. 1 that all the 13 workmen to the dispute, who were basically underground workers had/have been either suffering from bad health or disabled due to injury and thereby become unfit for their original jobs in underground and though it had no legal obligation to

provide them light jobs on the surface, yet considering the humanitarian aspect, the workmen have been accommodated on light surface duty on their request and since they are physically not fit, they have mostly been deployed as "chowkidars" and strictly speaking, there is no regular/standard designation of chowkidar in coal industry in the Security Cadre, yet the workmen have been accommodated to perform cowkidar's duty, mainly in residential areas, which is personal to them and as per the cadre scheme framed by JBCCI, none of the 13 workmen fits into the cadre either by their physical standards or age etc. and as such, the question of regularizing and placing them in the security cadre as security guards does not arise and since the said workmen were deployed as chowkidars, which is not a standard job, nor is has any pay scale, they are allowed to draw their pay in their original posts and they have been regularly drawing their annual increments etc. and moreover, regularization is always subject to vacancy and selection by DPC and it cannot be done suo-motu and the said workmen had appeared before the DPC October 1997, but not found suitable as security guard and if the workmen feel aggrieved by their deployment as chowkidars, it is still prepared to place them in their regular jobs, to which they may have a better and rightful claim. It is also pleaded by the party no. 1 that the 13 workmen have not been working as security guards, but they have been deployed as chowkidars, a non standard job, which is purely personal to them and assigned to them on their request on health grounds and there is no issue regarding the alleged less payment and change of service conditions, so they are not within the scope of reference and the workmen are not entitled for any relief.

4. In support of its claims, the union has examined three witnesses, namely, Shri Durgaiyah Mallaiyah, Shri Dasarapu Pochem Ankus and Shri Lomesh Maroti Khartad. The party no. 1 has also examined one Damerala Ramdeo Rao as a witness in support of its claims.

The three witnesses examined on behalf of the union have reiterated the facts mentioned in the statement of claim, in their examination-in-chief, which is on affidavit. Witness Durgaiyah Mallaiyah though in his examination-in-chief has stated that since the last 25 years, he is working as a security guard in the railways siding, in his cross-examination, he has stated that he was working as a security guard for the last 20 years and before his appointment as security guard, he had been working in the underground and no letter was issued to him for his posting as security guard and he doesn't know reading and writing and he is illiterate and no request was made by him for his posting as security guard during the last 20 years and all the 13 workmen including himself were performing underground duties before their posting as security guard and for what reason they were posted as security guards is not known to him.

Shri Dasarapu Pochem Ankus in his examination-in-chief itself has stated that he was appointed as a loader in 1972 and on 20-07-1988, he sustained injuries, while working in Mine no. 3, so he was given surface duty and from 10-06-1990 he was given the duty of security guard. In his cross-examination, he has stated that on 20-07-1988, while he was working underground as a loader, he sustained injuries and for that, from 10-06-1990, surface duty was given to him and due to the injury sustained by him, he was declared medically unfit to work in the underground.

Shri Lomesh Kartad in his cross-examination has stated that the statement of claim has been filed on the basis of the information given by the workman.

5. The evidence of the witness examined on the behalf of the party no. 1 is in the same line of the stands taken by the party no. 1 in the written statement. In his cross-examination this witness has categorically stated that all the 13 workmen were working underground and as they were found medically unfit, they were deployed as general mazdoor in the security department and they were not appointed as security guards and they do not possess the required qualification for posting as security guards and for appointment as a security guard, it is necessary to have educational qualification of class 7th pass, below 38 years of age and physically fit and the 13 workmen were neither physically fit nor they had passed class 7th standard and as such, they were not regularized as security guards.

6. At the time of argument it was submitted by the learned advocate for the workmen that as the workmen are working as security guards for more than 20 years, they are entitled for regularization as security guards, but the party no. 1, inspite of the demands of the workmen is not regularizing them.

7. On the other hand, it was submitted by the learned advocate for the party no. 1 that the workmen were working in the underground either as loader or coal filler and mazdoors and as they were found medically unfit to work underground, they were given light work on surface by party no. 1 and they were never appointed as security guards but they were engaged as chowkidars which was personal to them and for appointment as security guards, it is necessary to be physically fit, to be below 38 years of age and to have educational qualification of passing class 7th standard and as the workmen do not have the said qualifications, they cannot be regularized as security guards.

8. Perused the record including the pleadings of the parties and the documents produced by them. Admittedly, the 13 workmen were not appointed as security guards. Originally, they were appointed either as coal filler, or loader, or general mazdoor and all of them were working underground. There is no pleading in the statement of claim as to why the 13 workmen were given surface duty or posted as security guards as per their claim. On the other

hand the party no. 1 has stated that as the said workmen sustained injuries during working underground, on humanitarian ground, they were provided work on surface and were engaged as chowkidars. Such claim of the party no. 1 amply finds support from the evidence of Dasarapu Pochem Ankus. It is also found from record that there is no document to show that the 13 workmen were posted as security guards. Rather, according to the own claim of the union, the workmen were described as chowkidar in some documents, which also supports the claim of the party no. 1. It is also found from record that for appointment of security guard, some qualifications are required and the 13 workmen do not have the required qualification. So taking into consideration the entire facts and the circumstances of the case and the submissions made by the learned advocates of the parties and the documents on record, it is found that the workmen are not entitled to be regularized as security guards. The other points regarding protection of wages and change of service conditions raised in the statement of claim cannot be adjudicated, as such issues have not been referred in the schedule of reference and it is well settled that the Tribunal cannot go beyond the reference. Hence, it is ordered :

ORDER

The action of the management, namely, Sub Area Manager, Hindustan Lalpeth Underground Sub Area of WCL, PO Lalpeth, Distt. Chandrapur in not regularizing 13 workmen (as mentioned above) as Security Guards is legal, proper and justified. The workmen are not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 19 सितम्बर, 2011

का.आ. 2888.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पी.जी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 96/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-42012/83/2004-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 19th September, 2011

S.O. 2888.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 96/2005) of the Central Government Industrial Tribunal-cum-Labour Court-2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of PGI and their workmen, received by the Central Government on 19-9-2011.

[No. L-42012/83/2004-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH****Present:** Sri A.K. Rastogi, Presiding Officer**Case No. I. D. 96/2005****Registered on - 30-6-2005****Sh. Satish Kumar, S/o Sh. Kedar Nath, H.No.2104, Sector
15-C**

.... Petitioner

*Versus***The Director, PGI, Sector 12, Chandigarh**

.... Respondent

APPEARANCES**For the workman - Sh. Rakesh Mohan Jain****For the Management- Sh. Yogesh Putney****AWARD****Passed on Aug. 29, 2011**

Central Government vide Order No. L-42012/83/2004 -IR(CM-II)) Dated 15-4-2005, by exercising its powers Under Section 10 sub-section (I) clause (d) and sub-section 2(A) of the Industrial Disputes Act, 1947(hereinafter referred to as Act) has referred the following Industrial dispute for adjudication to this Tribunal:

“Whether the action of the management of PGI, Chandigarh in terminating the services of Sh. Satish Kumar, Beldar w.e.f 1-7-2001 is legal and justified? If not, to what relief the workman is entitled?”

As per claim statement filed on 1-11-2010 the workman was appointed as Beldar with the management w.e.f 14-12-1998 to 8-5-1999 and thereafter from 1-1-2001 to June 2001. On 1st July, 2001 he was asked by the Executive Engineer not to attend his duties from 1-7-2001. The workman served the management for more than 240 days in a year but he was turned out of the service without any notice and retrenchment compensation. Posts of Beldar are still lying vacant with the management. Workman has claimed his reinstatement with full back wages and continuity of service.

Claim was contested by the management. According to it the workman had been engaged on muster roll basis against specific sanction issued from time to time and the last sanction expired in June 2001. The workman had not been engaged in accordance with the recruitment rules and had been engaged only to cope with the additional temporary work. His engagement was not against sanctioned post and nor there is any sanctioned post. There is no relationship of master and servant. The workman has not completed 240 days continuous service

as per law. Hence he was not entitled to any benefit under Section 25-F of the Act.

In his rejoinder to the written statement of the management the workman has stated that he has completed 249 days service. So he is entitled to regularization.

Workman for himself and Sh. Prem Chand, Assistant Engineer Civil for the management filed their affidavits and gave their statements. Management has filed the attested copies of the muster rolls also.

I have perused evidence on record and the written arguments of the parties.

The contention of the workman is that his services were terminated from 1-7-2001 without any notice and without paying retrenchment compensation and he has served for 249 days. In his affidavit he has stated that he worked from 14-9-1998 to 8-5-1999 and from 29-1-2000 to 3-10-2000 as Beldar on daily basis. It is in contradiction to his statement in his claim that his last stint was from 1-1-2000 to June 2001. However from the statement of the management in its written statement that the workman had been engaged against specific sanction issued from time to time and last sanction expired in June, 2001 and from the details of the working days given in the written statement and from the copies of the muster roll provided by the management, it appears that the workman actually worked upto 19-6-2001 in his last stint commencing from 9-2-2000. There is nothing on record to show that the services of the workman were terminated with effect from 1-7-2001. From the details of the muster roll given in the affidavit of the management-witness it is clear that his service was not continuous.

For the protection of Section 25-F of the Act it is necessary that the workman must have completed continuous service for not less than one year. As per the definition clause contained in Section 25-B of the Act a workman shall be deemed to be in continuous service if he, during a period of 12 calendar months preceding the date of his termination, has actually worked for not less than 240 days. Thus for the protection of Section 25-F of the Act it is necessary for the workman to prove that he has worked for 240 days in 12 calendar months preceding the date of his termination. As it has been stated above the service of the workman as per muster roll was terminated on 19-6-2001. Thus the relevant period for counting 240 days service is from 20-6-2000 to 19-6-2001. From the muster roll of the period 25-5-2000 to 26-6-2000 it appears that from 20-6-2000 to 30-6-2000 the workman worked only for five days. As per the details given in the affidavit of the witness the workman worked up to 19-6-2001 for 188 days only i.e. much less than required 240 days. He is therefore not entitled to the benefit of Section 25-F of the Act. Management committed no illegality in terminating the services of the workman without

any notice and retrenchment compensation. The workman was not a regular employee. He had not been engaged according to rules and there is nothing to show that he had been appointed against a sanctioned post. He was a daily wager. He has no right to any post and therefore is not entitled to regularization or reinstatement.

From the above going discussion it is clear that the services of workman Sh. Satish Kumar were not terminated w.e.f. 1-7-2001 but were terminated on 19-6-2001 and the action of the management in terminating the services of the workman is legal and justified. Workman is not entitled to any relief. Reference is answered against the workman. Let two copies of the Award be send to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2889.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (एलसीआईडी संख्या 118/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22013/1/2011-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2889.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID No. 118/2007) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 20-9-2011.

[No. L-22013/1/2011-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 9th day of August, 2011

INDUSTRIAL DISPUTE L.C. No. 118/2007

Between :

Sri Gampala Rajanna,
S/o Rajam,
C/o Smt. A. Sarojana, Advocate,
Flat No. G7, Ground Floor, Rajeshwari
Gayatri Sadan, Opp : Badruka Jr. College
For Girls, Kachiguda,
Hyderabad.

.....Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur (Projects) Area, Sreerampur,
Adilabad district.
2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
SRP-3 and 3A Incline, Srirampur Area,
Srirampur, Adilabad district.

... Respondents

APPEARANCES :

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy,
Advocates

For the Respondent : Sri S.M. Subhani, Advocate

AWARD

This petition under Sec. 2 A (2) of the I.D. Act, 1947 has been filed by Sri Gampala Rajanna, ex-badli filler to set aside the termination order dated 28-11-1998 and to reinstate the Petitioner workman with full back wages.

2. It is alleged by the Petitioner that he was appointed as badli filler in the year 1994. He was regular to his duties but during the year 1996 the Petitioner suffered with fits, as such he could not be regular to his duties. He took treatment in various hospitals for better medication, however, after prolonged treatment Petitioner recovered to some extent. While so, a charge sheet dated 29-8-1997 was issued alleging that the Petitioner remained absent during the year 1996 which amounts to misconduct under company's Standing Orders No. 25.25. The Petitioner has submitted his explanation but the Respondents were not satisfied and ordered for departmental enquiry. The Enquiry Officer conducted the enquiry with pre-determined notion. The enquiry was not valid in nature. The Enquiry Officer submitted his report on the basis of which a show cause notice was issued to the Petitioner against which Petitioner submitted his reply. The Disciplinary Authority did not consider the submission made by the Petitioner and passed dismissed Petitioner with immediate effect vide order dated 28-11-1998. The Petitioner was absent due to ill-health and the same was stated by the Petitioner before the Enquiry Officer, no challenge was made from the side of the management as such, the submission made by the Petitioner would have been deemed to be correct but the Enquiry Officer has not considered the submission made by the Petitioner workman. He submitted his enquiry report with a predetermined notion as such, the order passed on such enquiry report is bad and deserves to be quashed. Proper opportunity was not given to the Petitioner in the enquiry proceeding. The action of the Respondents in dismissing the Petitioner from service is illegal, arbitrary, violative of principles of natural justice and hence, be set aside directing the Respondents to reinstate the Petitioner with all consequential benefits etc.

3. Management has submitted his reply alleging therein that Petitioner remained absent for the year 1996 which hampered the working of the company, the absence of the Petitioner was without any sufficient cause which is grave misconduct within the Standing Orders 25.25 of the company and dismissal is not bad in the light of the case law reported in 1996(1) SCC. 302 State of U. P. and others Vs. Ashok Kumar Singh. Petitioner's contention that he was not afforded proper opportunity is incorrect. Due notices were given to the Petitioner to participate in the enquiry proceeding. Three notices were acknowledged by the Petitioner, but he did not turn up. Another notice dated 9-3-98 was issued to him then, he submitted explanation to the charge sheet on the date of enquiry proceeding i.e., 10-3-1998 and he participated in the enquiry proceeding. Petitioner did not avail the assistance of co-worker though he was given opportunity to take the help of a co-worker. Petitioner did not produce any sickness proof, thus he failed to produce any documentary evidence before the Enquiry Officer. Petitioner had put in 111, 115, 47 and 65 musters during the years 1994, 1995, 1996 (Charge sheeted year) and 1997 respectively. During the year 1996 he had put in 47 actual musters and remained absent rest of the days. This proves that the Petitioner was not sincere to his work. He intentionally absented himself without any reason or cause. The company has provided medical facilities by establishing hospitals to its employees, the Petitioner did not report to the company hospital for his treatment thus, his submission that he was absent due to ill-health is unfounded, Enquiry Officer has given his finding on the material placed before him by the management and no fault can be found in the enquiry report, it is based on evidence and Petitioner's dismissal order is proportionate to the misconduct committed by him since Petitioner was not regular to his duties company has dismissed him which is neither illegal nor invalid. Hence, the petition be dismissed as devoid of merits.

4. Parties were directed to produce documentary evidence in support of their claims. Petitioner has filed charge sheet and dismissal order. However, the Respondent has filed charge sheet and acknowledgement, enquiry notices and acknowledgements, entire domestic enquiry proceedings file and enquiry report.

5. Coming to the point of the legality and validity of domestic enquiry held by the management it is pertinent to mention that Learned Counsel for the Petitioner moved memo dated 19-3-2010 conceding the validity and legality of the domestic enquiry as such, the domestic enquiry was held to be legal and valid.

6. Both parties submitted oral arguments and counsel for Petitioner submitted written arguments. I have heard counsels for the parties and have gone through the claim petition, counter statement and documents filed by the parties.

7. It has been argued by the Learned Counsel for the Petitioner that Petitioner was absent due to his ill-

health. He presented himself before the Enquiry Officer and stated before him that he was sick that was the reason that he could not attend to his duties. The Enquiry Officer has not considered this material aspect of the case nor has applied his mind to the fact of the case nor he gave any finding regarding the sickness of the workman, thus, the finding of the Enquiry Officer is perverse and the punishment based on such perverse finding is also illegal and invalid and deserves to be quashed. Against this argument of the counsel for the Petitioner, Learned Counsel for the Respondent management has argued that Petitioner could not produce any proof in support of his sickness nor he has produced any witness in his defence. Moreover, Petitioner has admitted his guilt stating that he remained absent on the dates mentioned in the charge sheet, as such, the enquiry held is neither perverse nor illegal.

8. In view of the arguments, this tribunal has to see,

- (I) Whether the action taken against the Petitioner dismissing him from the services of the Respondent company is legal and justified ?
- (II) If not, to what relief the Petitioner is entitled to ?

9. Point No. (I) : It is admitted fact that the Petitioner has put in only 47 musters during the year 1996 for which a charge sheet dated 29-8-1997 was issued to the Petitioner against which the Petitioner filed his explanation stating therein that he remained absent due to ill-health. It is also admitted fact that domestic enquiry was conducted and Petitioner has participated in the domestic enquiry. On the basis of the report submitted by the Enquiry Officer dismissal order has been passed against the Petitioner. Petitioner's statement was recorded by the Enquiry Officer and during the course of the enquiry he stated that he worked for 47 days and remained absent for the rest of days due to health problem. But has not been able to provide any material or document before the Enquiry Officer to substantiate his allegations. In his reply dated 10-3-1998 he has not mentioned from what disease he suffered and where did he took treatment. He simply written that he could not perform his duty due to his suffering from ill-health. As against this, the management has produced Sri M.V. Tamma Rao, OS, and Sri Adapa Rambabu, Acting Paysheet Clerk, to prove that Petitioner remained absent without any leave or without any intimation during the year 1996. Since absence of the Petitioner was admitted by the Petitioner himself it was the sole duty of the Petitioner to prove that his absence was due to any cogent reason or sufficient cause. Petitioner was unable to prove that his absence during the year 1996 was due to sufficient reason. Though he stated that he was absent due to ill-health but he was not able to provide any evidence or proof in support of his illness or illness of any of his family members. Even if it is presumed that Petitioner remained absent due to the ill-health why he did not inform his superiors regarding his illness, has not been explained by the Petitioner. Thus, the finding of the Enquiry Officer that Petitioner's absence during the year 1996 was

without reason and sufficient cause, is based on evidence and reasoning and no fault can be found in the finding arrived at by the Enquiry Officer.

10. This tribunal is also of the opinion that the Petitioner remained absent without any intimation to his employer during the year 1996, his absence was without any reasonable or sufficient cause and thereby the Petitioner has committed misconduct mentioned in para 25.25 of the Standing Orders of the company. Point No.1 is decided accordingly.

11. Point No. 2: So far as the question of punishment is concerned the Petitioner has not been able to justify his absence during the year 1996, he has voluntarily admitted before the Enquiry Officer that he remained absent during 1996 and could attend only 47 musters but the absence is surely a grave misconduct and management has not committed any mistake in passing the punishment of dismissal against the Petitioner. The Learned Counsel for the Petitioner has argued that the Petitioner's family is starving due to dismissal of the Petitioner against which Learned Counsel for the Respondent has argued that Petitioner himself is responsible for the starvation of the family members, the Petitioner was a unwilling worker who has not cared to perform his duties with sincerity as such, the punishment was proper and interference is not required in this case.

12. I agree with the argument of the Learned Counsel for the Respondent and I am also of the considered opinion that the punishment imposed on the Petitioner is neither excessive nor disproportionate and Petitioner is not a deserving person for any lenient view to be taken in favour of the Petitioner. The Petitioner himself is responsible for the starvation of his family members, no interference is required in the matter of the punishment. Point No.2 is decided accordingly.

13. From the above discussion, this tribunal is of the considered opinion that the claim petition is unfounded, no interference is required in this case. Petitioner is not entitled for any relief, petition deserves to be dismissed and hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 9th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2890.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (सीजीआईटी/एलसीआईटी संख्या 112/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22013/1/2011-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2890.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID No. 112/2007) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 20-9-2011.

[No. L-22013/1/2011-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT AT HYDERABAD

Present: - SHRI VED PRAKASH GAUR, Presiding Officer

Dated the 4th day of August, 2011

INDUSTRIAL DISPUTE L. C. No. 112/2007

Between:

Sri Chidipi Samson,
S/o Ch. Reward,
C/o Smt. A. Sarojana, Advocate,
Flat No. G 7, Ground Floor, Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College For Girls, Kachiguda,
Hyderabad.

... Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bellampally, Adilabad District.
2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
MVK -5 Incline, Bellampally, Adilabad District.

... Respondents

APPEARANCES:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva
Reddy, Advocates

For the Respondent: M/s. P.A.V.V.S. Sarma & Vijaya Laxmi
Panguluri, Advocates

AWARD

Sri Chidipi Samson, ex-worker of M/s. Singareni Collieries Company Ltd., challenged the order of his dismissal dated 22-7-1999 and to reinstate him in the services with full back wages through his claim petition filed under Sec.2 A (2) of the I.D. Act, 1947.

2. It has been alleged by the Petitioner that he was appointed as badli filler in 1991. Petitioner rendered his services sincerely till 1997, but, during the year 1998 Petitioner suffered with ill-health and other family problems due to which he could not attend regular duties. While so, a proceeding No.P. BPA129/1933 dated 22-7-1999 was issued to him alleging that charge sheet dated 7-7-1998 was issued under company Standing Orders No. 25.25 for habitual absenteeism from duty without leave or without sufficient cause during the year 1998. The proceeding also states that the charge sheet was sent to the Petitioner's house which was returned undelivered, as such, a paper advertisement was issued advising the Petitioner to attend for enquiry and as that Petitioner did not attend enquiry on the scheduled date, exparte enquiry was conducted and he was dismissed from service vide order dated 22-7-1999.

3. Petitioner submitted that he was undergoing treatment in his native village, he was not aware of issuance of charge sheet or publication made by Respondent in the newspaper. If he is aware of all these things he would have certainly participated in the enquiry. He has not received any communication from the management. Petitioner submits that Respondent said to have published the notice of enquiry in Vaartha Telugu Newspaper dated 9-1-1999 but he had no knowledge and also he was staying at a remote village where circulation of Vaartha daily paper is very less. That the charge of absenteeism due to sickness ought not to have treated as serious misconduct and imposition of punishment of dismissal from service is disproportionate as such, dismissal of Petitioner is illegal, arbitrary and violating principles of natural justice. After issuance of the order of dismissal, management has conducted interviews for workmen who were dismissed from service on account of absenteeism wherein though Petitioner has applied for the same, attended interview and assured to be regular to his duties, he was not given reappointment, though others were considered for appointment. As such the order of dismissal dated 22-7-1999 deserves to be set aside and Petitioner be reinstated with full back wages.

4. Respondent has filed counter statement. Management has submitted his reply alleging therein that Petitioner remained absent for the year 1997 which hampered the working of the company, the absence of the Petitioner was without any sufficient cause which is grave misconduct within the Standing Orders 25.25 of the company and dismissal is not bad in the light of the case law reported in 1996(1) SCC. 302 State of U.P. and others Vs. Ashok Kumar Singh. Petitioner joined the services of

the company through dependant's employment. He was appointed as badli filler at MVK-5 incline on 1-8-1992. Petitioner did not attend duty due to ill-health is false as Petitioner did not avail treatment in company hospital. He was not regular to his duties. He did not put up required 190 actual musters in any year from his appointment till his termination. He had put in 144 musters in 1994, 125 in 1995, 113 in 1996, 74 in 1997 and 34 musters in 1998. In view of his past record and actual attendances put in by him in 1997 he was issued with a charge sheet which was sent by Registered Post and Petitioner received the charge sheet on 14-10-1998 but did not submitted his explanation. Petitioner's contention that he was not afforded proper opportunity is incorrect. Due notices were given to the Petitioner to participate in the enquiry proceeding, but Petitioner refused to receive the same, as such, paper publication was issued intimating that enquiry into the case would be held on 16-1-1999. Accordingly enquiry was held, Petitioner did not attend the enquiry. Hence, exparte enquiry was held wherein Petitioner was found guilty of the charges. Show cause notice enclosing enquiry proceeding was sent to the Petitioner for his submissions or explanations if any against enquiry report. The same was published in the Vaartha daily newspaper on 6-5-99, however, Petitioner did not submit any representation. After consideration of material on record Disciplinary Authority has terminated the services of Sri Chidipi Samson w.e.f. 27-7-1999 vide Lr. No.P. BPA/129/1933 dated 22-7-1999. Respondent has not committed any mistake in dismissing the services of the Petitioner because the performance of the Petitioner was not satisfactory. It was effecting the production of the company. Petitioner has kept quite for 8 years after dismissal he did not raise industrial dispute during this period. Hence, the Petition suffers from delay and laches. Petition deserves to be dismissed.

5. It is pertinent to mention here that though the proceeding taken before the Enquiry Officer was challenged by the workman through his claim petition, but on 18-3-2009 Petitioner's counsel filed memo before this tribunal conceding the legality and validity of the domestic enquiry, thus, the domestic enquiry has been held to be legal and valid.

6. Heard both parties and both parties have submitted their written arguments also under Sec.11 A.

7. It has been argued by the Learned Counsel for the Petitioner that though Petitioner has conceded to the legality and validity of the domestic enquiry, but he has every right to challenge the findings of the Enquiry Officer, during the course of arguments under Sec.11 A of the Industrial Disputes Act, 1947. In the present case though the Petitioner's absence is not challenged Petitioner submitted that due to family problems and ill-health he remained absent. Learned Counsel for the Petitioner argued that Petitioner was not aware of the issuance of the notice of enquiry or publication of date of enquiry, he could not participate in the enquiry as he was bed ridden in a remote

village, none of his family members are literates as such, they could not know the publication of notice in newspaper. Against this argument, Learned Counsel for the Respondent has argued that Enquiry Officer has considered all the material placed before him and it is established that the Petitioner has not taken treatment at company's hospital which was made known through letter of hospital to the Respondent and Enquiry Officer's report is based on evidence produced before him.

7A. I have considered the above arguments. This Tribunal has to consider the following points:

(1) Whether the absence of Petitioner during the year 1997 was for any sufficient and reasonable cause or not and the report of Enquiry Officer is based on evidence or not?

(2) Whether the punishment imposed upon the Petitioner is disproportionate to the misconduct committed by the Petitioner?

8. **Point No.1:** It is undisputed fact that Petitioner remained absent under clause 25.25. Habitual absence from duty without sufficient cause is a misconduct. In the present case the Petitioner did not appear before the Enquiry Officer though enquiry notice has been published in Vaartha daily newspaper as he refused to receive the notice. The Petitioner has submitted that he remained ill during the year 1997 due to which he remained absent and put in 74 musters during the year 1997, but has not been able to provide any single document before Enquiry Officer nor before this Tribunal to substantiate his allegations. The management has produced Sri M.S. Nagabhushana Rao, Clerk Gr.I, and Sri V. Prabhakar, Clerk Grade-I to prove that Petitioner remained absent without any leave or without any intimation during the year 1997. Though he stated that he was absent due to ill-health but he is not able to provide any evidence or proof in support of his illness. Even if it is presumed that Petitioner remained absent due to the ill-health why he did not inform his superiors regarding his illness has not been explained by the Petitioner atleast before this Tribunal by producing any document like medical prescriptions, fitness certificates etc. Thus, the finding of the Enquiry Officer that Petitioner's absence during the year 1997 was without reasonable and sufficient cause, is based on evidence and reasoning given by Enquiry Officer suffers no fault, finding arrived at by the Enquiry Officer is legal and valid.

9. This tribunal is also of the opinion that the Petitioner remained absent without any intimation to his employer during the year 1997, his absence was without any reasonable or sufficient cause and thereby the Petitioner has committed misconduct mentioned in para 25.25 of the Standing Orders of the company. The report of Enquiry Officer is based on legal grounds and material placed before him. Point No.1 is decided accordingly.

10. **Point No. 2 :** So far as the question of punishment is concerned the Petitioner has not been able to justify his absence during the year 1997, he remained absent during

enquiry proceeding, his counsel filed memo conceding enquiry proceeding legal and valid before this Tribunal which implies enquiry has been validly and legally conducted by following principles of natural justice by the Respondent management and it further implies that the worker remained absent during 1997 and he attended for only 74 musters. This Tribunal has to see only point whether the punishment imposed is harsh or disproportionate to the misconduct committed by the Petitioner. Though the Respondent management has stated in the counter statement that Petitioner remained absent during the year 1995 and 1996 also which was not mentioned in the charge sheet. However, this fact was not brought before the Enquiry Officer also. As such, the previous absence can not be taken into consideration but the absence in the year 1997 is surely a grave misconduct and management has not committed any mistake in passing the punishment of dismissal against the Petitioner. The Learned Counsel for the Petitioner has argued that the Petitioner's family is starving due to dismissal of the Petitioner against which Learned Counsel for the Respondent has argued that Petitioner himself is responsible for the starvation of the family members, the Petitioner was a unwilling worker who has not cared to perform his duties with sincerity as such, the punishment was proper and interference is not required in this case.

11. I agree with the argument of the Learned Counsel for the Respondent and I am also of the considered opinion that the punishment imposed on the Petitioner is neither excessive nor disproportionate and Petitioner is not a deserving person for any lenient view to be taken in his favour. The Petitioner himself is responsible for the starvation of his family members, no interference is required in the matter of the punishment. Point No. 2 is decided accordingly.

12. From the above discussion, this tribunal is of the considered opinion that the claim petition is unfounded, no interference is required in this case. Petitioner is not entitled for any relief, petition deserves to be dismissed and hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 4th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined
for the Petitioner

NIL

Witnesses examined for the
Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 सितम्बर, 2011

AWARD

का.आ. 2891.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (सीजीआईटी/एलसीआईडी संख्या 109/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22013/1/2011-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2891.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID No. 109/2006) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 20-9-2011.

[No. L-22013/1/2011-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present: - SHRI VED PRAKASH GAUR, Presiding Officer

Dated the 12th day of August, 2011

INDUSTRIAL DISPUTE L. C. No. 109/2006**Between:**

Sri Vadala Satynarayana,
S/o Rajamallu, Ram Kish,
C/o Smt. A. Sarojana, Advocate,
Flat No. G7, Ground Floor, Rajeshwari
Gayatri Sadan, Opp: Badruka Jr. College
For Girls, Kachiguda,
Hyderabad.

... Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramagundam Area-IV, Ramagundam.

2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
Open cast Mine-I, Ramagundam.

... Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva
Reddy, Advocates

For the Respondent: M/s. P.A.V.V.S. Sarma & Vijaya laxmi
Panguluri, Advocates

This petition under Sec.2 A (2) of the I.D. Act, 1947 has been filed by Sri Vadala Satyanarayana, ex-badli filler to set aside the termination order dated 17-10-2000 and to reinstate the Petitioner workman with full back wages.

2. It is alleged by the Petitioner that he was appointed as badli filler on 7-3-1978 and he was promoted as General Mazdoor in the year 1982 and drill operator during 1991 and used to perform his duties up to the satisfaction of his superiors. While so, a charge sheet dated 22-4-2000 was issued alleging that the Petitioner was absent without leave or without sufficient cause on various dates to his duties during the year 1999 which amount to misconduct under company's Standing Orders No. 25.25. The Enquiry Officer conducted the enquiry with pre-determined notion. The enquiry was not valid in nature. The Enquiry Officer submitted his report, relying on the said report, Respondent No.1 issued impugned proceeding dated 17-10-2000 dismissing the Petitioner from service w.e.f. 19-10-2000. Petitioner was absent not only due to ill-health but also on account of enigma of his son's sad demise. Enquiry Officer has submitted his enquiry report with a predetermined notion as such, the order passed on such enquiry report is bad and deserves to be quashed. Proper opportunity was not given to the Petitioner in the enquiry proceeding. Petitioner was not considered for reappointment under scheme of workmen who were dismissed from service on account of unauthorized absenteeism. The action of the Respondents in dismissing the Petitioner from service is illegal, arbitrary, violative of principles of natural justice and hence, be set aside directing the Respondents to reinstate the Petitioner with all consequential benefits etc.

3. Management has submitted counter statement alleging therein that Petitioner remained absent for the year 1999 which hampered the working of the company, the absence of the Petitioner was without any sufficient cause which is grave misconduct within the Standing Orders 25.25 of the company and dismissal is not bad in the light of the case law reported in 1996(1) SCC. 302 State of U. P. and others Vs. Ashok Kumar Singh. Petitioner's contention that he was not afforded proper opportunity is incorrect. Due notices were given to the Petitioner to participate in the enquiry proceeding. The notice was acknowledged by the Petitioner and he participated in the enquiry proceeding. Petitioner did not availed the assistance of co-worker though he was given the opportunity to take the help of a co-worker. Petitioner did not produce any sickness proof, thus he failed to produce any material before the Enquiry Officer. During the years 1995, 1996, 1997 and 1998 also the Petitioner was not regular to his duties. In the year 1995 he had put in 143 musters, in 1996-61 musters, in 1997 he had put in 107 musters and in the year 1998 he had put in 117 musters, in 1999 he had put in only 90 musters. This proves that the Petitioner was not

sincere to his work. He intentionally absented himself without any reason or cause. The company has provided medical facilities by establishing hospitals, the Petitioner did not report to the company hospital for his alleged sickness thus, his submission that he was absent due to ill-health is unfounded, Enquiry Officer has given his finding on the material placed before him by the management and no fault can be found in the enquiry report, it is based on evidence and Petitioner's dismissal order is not disproportionate to the misconduct committed by him since Petitioner was not regular to his duties company has dismissed him which is neither illegal nor invalid. Moreover, Petitioner submitted applications for settlement of terminal benefits and he was paid, Gratuity of Rs. 84,459, CMPF of Rs. 2,05,100 and FBIS Accumulations of Rs. 4,211-80 and further on his application an amount of Rs. 503 per month is being paid to him towards Coal Mines Pension Scheme. The petition is liable to be dismissed as devoid of merits.

4. Parties were directed to produce documentary evidence in support of their claims. The Respondent has filed charge sheet and acknowledgement, enquiry notice, explanation, corrigendum to charge sheet musters, entire domestic enquiry proceedings, show cause notice issued to him, his explanation against show cause notice, proposal for disciplinary action and dismissal order.

5. Coming to the point of the legality and validity of domestic enquiry held by the management it is pertinent to mention that Learned Counsel for the Petitioner moved memo dated 29-4-2009 not to challenge the validity and legality of the domestic enquiry as such, the domestic enquiry was held to be legal and valid.

6. Petitioner counsel filed written arguments. I have heard counsels for the parties and have gone through the claim petition, counter statement, documents and written arguments filed by the parties.

7. It is admitted fact that the Petitioner has put in only 90 musters during the year 1999 for which a charge sheet dated 18/22-4-2000 was issued to the Petitioner against which the Petitioner filed his explanation stating therein that he could not be regular to his duties due to non-allotment of quarter at OCP-I, GDK he has to come and back from Mandamarri in total 100 Km. daily which caused ill-health as such, he remained absent. It is also admitted that domestic enquiry was conducted and Petitioner participated in the domestic enquiry. On the basis of the report submitted by the Enquiry Officer dismissal order has been passed against the Petitioner which is under challenge. In this case this tribunal has to consider,

(1) Whether the absence of Petitioner during the year 1999 was for any sufficient and reasonable cause or not and the report of Enquiry Officer is based on evidence or not.

(2) Whether the punishment imposed upon the Petitioner is disproportionate to the misconduct committed by the Petitioner.

8. Point No.1: The Petitioner has submitted that he remained ill during the year 1999 due to which he remained absent and put in 90 musters during the year 1999. His statement was recorded by the Enquiry Officer and during the course of the enquiry he stated that he worked for 90 days and remained absent for the rest of days due to health problem. But has not been able to provide any single document before the Enquiry Officer to substantiate allegations of sickness. In his reply dated 5-5-2000 he has not mentioned about the sad demise of his son. He simply written that he could not perform his duty due to his suffering from travelling to and fro from Mandamarri to work place OCP-I GDK and getting illness due to journey of 100 Km. daily. As against this, the management has produced Sri N. Satyanarayana, Clerk and Sri M. Sadanandam, Clerk to prove that Petitioner remained absent without any leave or without any intimation during the year 1999. Since absence of the Petitioner was admitted by the Petitioner himself it was the sole duty of the Petitioner to prove that his absence was due to any cogent reason or sufficient cause. Petitioner was unable to prove that his absence during the year 1999 was due to sufficient reason. Though he stated that he was absent due to ill-health but he is not able to provide any evidence or proof in support of his illness. Even if it is presumed that Petitioner remained absent due to the ill-health why he did not inform his superiors regarding his illness, has not been explained by the Petitioner. Thus, the finding of the Enquiry Officer that Petitioner's absence during the year 1999 was without reason and sufficient cause, is based on evidence and reasoning and no fault can be found in the finding arrived at by the Enquiry Officer. So far as the cause of absence due to death of son of workman is concerned he has not disclosed the date of death of his son as such, this cause is also unfounded.

9. This tribunal is also of the opinion that the Petitioner remained absent without any intimation to his employer during the year 1999, his absence was without any reasonable or sufficient cause and thereby the Petitioner has committed misconduct mentioned in para 25.25 of the Standing Orders of the company. Point No.1 is decided accordingly.

10. Point No. 2 : So far as the question of punishment is concerned the Petitioner has not been able to justify his absence during the year 1999, he has voluntarily admitted before the Enquiry Officer that he remained absent during 1999 and could attend only 90 musters though the Respondent management has stated in the counter statement that Petitioner remained absent during the year 1995, 1996, 1997 and 1998 also which was not mentioned in the charge sheet. However, this fact was not brought before the Enquiry Officer also. As such, the previous

absence can not be taken into consideration but the absence in the year 1999 is surely a grave misconduct and management has not committed any mistake in passing the punishment of dismissal against the Petitioner. The Learned Counsel for the Petitioner has argued that the Petitioner's family is starving due to dismissal of the Petitioner against which Learned Counsel for the Respondent has argued that Petitioner himself is responsible for the starvation of the family members, the Petitioner was a unwilling worker who has not cared to perform his duties with sincerity as such, the punishment was proper and interference is not required in this case.

11. I agree with the argument of the Learned Counsel for the Respondent and I am also of the considered opinion that the punishment imposed on the Petitioner is neither excessive nor disproportionate and Petitioner is not a deserving person for any lenient view, to be taken in favour of the Petitioner. The Petitioner himself is responsible for the starvation of his family members, no interference is required in the matter of the punishment. Point No. 2 is decided accordingly.

12. From the above discussion, this tribunal is of the considered opinion that the claim petition is unfounded, no interference is required in this case. Petitioner is not entitled for any relief, petition deserves to be dismissed and hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 12th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2892.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (सीजीआईटी/एलसीआईडी संख्या 104/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22013/1/2011-आईआर (सी-II)]
डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2892.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID No. 104/2007) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 20-9-2011.

[No. L-22013/1/2011-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: - SHRI VED PRAKASH GAUR, Presiding Officer

Dated the 5th day of September, 2011

INDUSTRIAL DISPUTE L. C. No. 104/2007

Between:

Sri Biyyani Ramchander,
S/o Odelu,
C/o Smt. A. Sarojana, Advocate,
Flat No. G 7, Ground Floor, Rajeshwari
Gayatri Sadan, Opp: Badruka Jr. College
For Girls, Kachiguda,
Hyderabad.

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri, Adilabad District.
2. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
RK-1A Incline, Mandamarri, Adilabad District.

...Respondents

APPEARANCES:

For the Petitioner : M/s. A. Sarojana and K. Vasudeva
Reddy, Advocates

For the Respondent: Sri S. M. Subhani, Advocate

AWARD

This petition under Sec. 2 A (2) of the I.D. Act, 1947 has been filed by Sri Biyyani Ramchander, ex-badli filler to set aside the termination order dated 18-1-2000 and to reinstate the Petitioner workman with full back wages.

2. It is alleged by the Petitioner that he was appointed as badli filler on 9-5-1996 and used to perform his duties to the satisfaction of his superiors. In the year 1999 his father met with road accident, due to which his father got bed ridden for about 6 months and Petitioner

also suffered ill-health and other family problems, due to which he could not attend his duties. While so, a charge sheet dated 18-1-2000 was issued alleging that the Petitioner was absent without leave or without sufficient cause on various dates from his duties during the year 1999 which amount to misconduct under company's Standing Orders No. 25.25. Charge sheet was sent to Petitioner's house which was returned undelivered, upon which a paper advertisement was issued advising the Petitioner to attend for enquiry. As the Petitioner did not attend enquiry on the scheduled date, an ex parte enquiry was conducted and Petitioner was dismissed from service vide order dated 18-1-2000.

3. Petitioner was undergoing treatment at his native village, as such, he was unaware of the charge sheet as well as enquiry notice and its paper publication. Thus, he could not participate in the enquiry. Petitioner was absent due to ill-health. Enquiry Officer has submitted his enquiry report with a predetermined notion as such, the order passed on such enquiry report is bad and deserves to be quashed. Proper opportunity was not given to the Petitioner in the enquiry proceeding. Petitioner submitted explanation to the show cause notice but without considering the same he was dismissed from service. The action of the Respondents in dismissing the Petitioner from service is illegal, arbitrary, violative of principles of natural justice and hence, be set aside directing the Respondents to reinstate the Petitioner with all consequential benefits etc.

3. Management has submitted counter statement alleging therein that Petitioner remained absent for the year 1998 which hampered the working of the company, the absence of the Petitioner was without any sufficient cause which is grave misconduct within the Standing Orders 25.25 of the company and dismissal is not bad in the light of the case law reported in 1996(1) SCC 302 State of U.P. and others Vs. Ashok Kumar Singh. Petitioner's contention that he was not afforded proper opportunity is incorrect. Petitioner was initially appointed on 15-5-1996 as badli filler but not on 9-5-1996 as stated in the claim statement. He had put in 60 musters only during 1998 and remained absent on other days in the calendar year 1998 for which a charge sheet was issued to the Petitioner. Charge sheet was sent to his last known address was returned undelivered by postal authorities and hence, the charge sheet cum-enquiry notices was published in the Telugu daily Andhra Jyothi dated 1-4-1999 advising the Petitioner to submit his written explanation within four days and also to attend for an enquiry on 12-4-1999. As the Petitioner did not attend enquiry on the said date, Enquiry Officer was left with no option but to conduct ex-parte enquiry on 12-4-1999. As per enquiry report charge levelled against Petitioner was established and he was held guilty of the charge. He did not inform his superiors about his ill-health. He had put in 79, 102, 60 and 17 musters

during the years 1996, 1997, 1998 and 1999 respectively. This proves that the Petitioner was not sincere to his work. He intentionally absented himself without any reason or cause. The company has provided medical facilities by establishing hospitals, the Petitioner did not report to the company hospital for his alleged sickness thus, his submission that he was absent due to ill-health is unfounded, Enquiry Officer has given his finding on the material placed before him by the management and no fault can be found in the enquiry report, it is based on evidence and Petitioner's dismissal order is not disproportionate to the misconduct committed by him since Petitioner was not regular to his duties company has dismissed him which is neither illegal nor invalid. The petition is liable to be dismissed as devoid of merits.

4. Parties were directed to produce documentary evidence in support of their claims. Petitioner has filed dismissal order. The Respondent has filed charge sheet, undelivered cover with acknowledgement returned by postal authorities, Telugu daily 'Andhra Jyothi' dated 1-4-1999, domestic enquiry proceedings, enquiry report, undelivered cover containing enquiry report and proceedings, Telugu daily 'Andhra Jyothi' dated 2-12-1999 and dismissal order dated 18-1-2000.

5. The question of the legality and validity of domestic enquiry held by the management was taken up as preliminary point, it is pertinent to mention that Learned Counsel for the Petitioner moved memo dated 20-2-2009 conceding the validity and legality of the domestic enquiry as such, the domestic enquiry was held to be legal and valid.

6. Petitioner counsel filed written arguments. I have heard counsels for the parties and also have gone through the claim petition, counter statement and documents.

7. It is admitted fact that the Petitioner has put in only 60 musters during the year 1998 for which a charge sheet dated 1/10-2-1999 was sent to the Petitioner which was returned undelivered. Respondent has given paper advertisement charge sheet as well as enquiry notice in the Andhra Jyothi daily news paper. Petitioner did not attend enquiry as such, ex parte enquiry was held where charge against the Petitioner was held proved. On the basis of the report submitted by the Enquiry Officer dismissal order has been passed against the Petitioner which is under challenge. In this case this tribunal has to consider,

(1) Whether the absence of Petitioner during the year 1998 was for any sufficient and reasonable cause or not and the report of Enquiry Officer is based on evidence or not ?

(2) Whether the punishment imposed upon the Petitioner is disproportionate to the misconduct committed by the Petitioner.

8. Point No. 1 : The Petitioner has submitted that he remained ill during the year 1998 due to which he remained absent and put in 60 musters during the year 1998. But has not been able to provide any single document before the Enquiry Officer to substantiate allegations of sickness. Since absence of the Petitioner was admitted by the Petitioner himself through his claim petition it was the sole duty of the Petitioner to prove that his absence was due to any cogent reason or sufficient cause. Petitioner was unable to prove that his absence during the year 1998 was due to sufficient reason. Though he stated that he was absent due to ill-health but he has not provided any material or proof in support of his illness. Even if it is presumed that Petitioner remained absent due to the ill-health why he did not inform his superiors regarding his illness, has not been explained by the Petitioner. Petitioner did not attend enquiry, nor responded to the enquiry report, thus, exparte enquiry has become unavoidable in his case and the finding of the Enquiry Officer is based on evidence and reasoning that Petitioner's absence during the year 1998 was without reason and sufficient cause and no fault can be found in the finding arrived at by the Enquiry Officer. Though Petitioner has alleged that the enquiry was held exparte, he should have submitted supporting material facts or documents whatever may be in support of his ill-health atleast before this Tribunal for consideration. But nothing was brought by him before this Tribunal as such, his contention that he suffered ill-health is unfounded and baseless.

9. This tribunal is also of the opinion that the Petitioner remained absent without any intimation to his employer during the year 1998, his absence was without any reasonable or sufficient cause and thereby the Petitioner has committed misconduct mentioned in para 25.25 of the Standing Orders of the company. Point No.1 is decided accordingly.

10. Point No. 2 : So far as the question of punishment is concerned the Petitioner has not been able to justify his absence during the year 1998 and he attended only 60 musters though the Respondent management has stated in the counter statement that Petitioner remained absent during the years 1996, 1997 and 1999 also which was not mentioned in the charge sheet. However, this fact was brought before the Enquiry Officer. As such, the previous absence can not be taken into consideration but the absence in the year 1998 is surely a grave misconduct and management has not committed any mistake in passing the punishment of dismissal against the Petitioner. The Learned Counsel for the Petitioner has argued that the Petitioner's family is starving due to dismissal of the Petitioner against which Learned Counsel for the Respondent has argued that Petitioner himself is responsible for the starvation of the family members, the Petitioner was a unwilling worker who has not cared to perform his duties with sincerity as such, the punishment was proper and interference is not required in this case.

11. I agree with the argument of the Learned Counsel for the Respondent and I am also of the considered opinion that the punishment imposed on the Petitioner is neither excessive nor disproportionate and Petitioner is not a deserving person for any lenient view to be taken in his favour. The Petitioner himself is responsible for the starvation of his family members, no interference is required in the matter of the punishment. He is not entitled for any relief. Point No. 2 is decided accordingly.

12. From the above discussion, this tribunal is of the considered opinion that the claim petition is unfounded, no interference is required in this case. Petitioner is not entitled for any relief, petition deserves to be dismissed and hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 5th day of September, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2893.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (सीजीआईटी/एलसीआईडी संख्या 87/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22013/1/2011-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2893.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID No. 87/2007) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 20-9-2011.

[No. L-22013/1/2011-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

Present: SHRI VED PRAKASH GAUR, Presiding
 Officer

Dated the 12th day of August, 2011

INDUSTRIAL DISPUTE L. C. No. 87/2007

Between:

Sri Katla Laxman,
 S/o Lingaiah,
 C/o Smt. A. Sarojana,
 Advocate, Flat No. G-7,
 Ground floor, Rajeshwari Gayatri Sadan,
 Opp. Badruka Junior College for Girls,
 Kachiguda, Hyderabad.

...Petitioner

AND

1. The Chief General Manager,
 M/s. Singareni Collieries Company Ltd.,
 Ramakrishnapur Area, Mandamarri.
 Adilabad District.
2. The Colliery Manager,
 M/s. Singareni Collieries Company Ltd.,
 RK-5 Incline, Mandamarri Area, Mandamarri.
 Adilabad District.

... Respondents

APPEARANCES:

For the Petitioner : M/s. A. Sarojana and K. Vasudeva
 Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma and Vijaya Laxmi
 Panguluri, Advocates

AWARD

This petition under Sec. 2 A (2) of the I.D. Act, 1947 was filed by Sri Katla Laxman, ex. Employee of M/s. Singareni Collieries Company Ltd., challenging dismissal order dated 11-7-98 for reinstatement into services with all consequential benefits.

2. Petitioner filed claim petition stating therein that he was appointed as badli filler in 1996. During the year 1997 Petitioner suffered with ill-health and other family problems. That he was issued with a charge sheet dated 13-2-1998 alleging that he worked only for 31 musters during the year 1997 which amounts to misconduct under Standing Orders of the company. He submitted his explanation explaining his inability to perform duties for not more than 31 days. Without considering his plea, enquiry was conducted with predetermined notion. He was not given proper opportunity during enquiry, basing on the lopsided enquiry, Enquiry Officer held charges

against the Petitioner as proved, basing on the erroneous findings of the Enquiry Officer a show cause notice dated 20-5-1998 was issued to the Petitioner. Petitioner pleaded cause of his inability to perform the duties for not more than 31 musters during 1997 during enquiry, he also pleaded that he will attend for duty without absence in future. He has submitted that without considering his submissions, he was dismissed from service vide office order dated 11-7-1998 which is illegal, arbitrary and violative of principles of natural justice. Petitioner submitted that he is the sole bread winner in his family, consisting of octogenarian mother, wife and children and as a result of his dismissal from services his family is left without any livelihood and the punishment awarded is too harsh, excessive and disproportionate to the charges alleged. He prayed to set aside the order of dismissal and direct the Respondent to reinstate the Petitioner into service with back wages and all consequential benefits.

4. Respondent has filed counter statement. It is submitted that Petitioner was initially appointed as badli filler on 26-11-1996. He remained absent in 1997 without leave, sufficient cause and he had put in only 31 musters, as such, he was issued with a charge sheet dated 13-2-1998 under the company's Standing Orders No. 25.25 which reads as under: "Habitual late attendance or habitual absence from duty without sufficient cause."

5. Charge sheet was received by him and acknowledged by him. On 19-3-1998 Petitioner fully participated in the enquiry, the enquiry was conducted complying principles of natural justice. Petitioner was explained with the procedure of enquiry, he did not take assistance of any co-worker or office bearer the proceedings were explained in Telugu language and after understanding the proceedings only the Petitioner affixed his signature.

6. Basing on verification of records and voluntary admission of Petitioner the charges against the Petitioner were found proved. Respondent issued show cause notice dated 12-5-1998 enclosing copy of enquiry proceeding and enquiry report by registered post with acknowledgement due for which Petitioner submitted his reply on 20-5-1998. It is submitted that Petitioner worked up to March, 1997 for one day on 31-3-1997. However, to give him fair opportunity and to improve his performance he was allowed for duty and was given two months time and kept under observation, but he absented habitually during observation period, as such, Respondent was constrained to dismiss him.

7. It has been submitted that the Petitioner failed to produce valid documentary evidence to substantiate his statement of sickness. He would have availed medical facilities provided by the Respondent company. If any workman absents without prior notice it will hamper the work schedule of the Respondent company. It compels the Respondent to take severe action against the unauthorized absentees, as it was taken in the present case of the Petitioner. It has been submitted by Respondent

that the case laws reported in State of U. P. and others Vs. Ashok Kumar Singh and another 1996(1) SCC 302 and in Ashappa's case are relevant to the present case. Petition and claim statement deserves to be dismissed.

8. Both parties were directed to file their respective evidence. Petitioner filed dismissal order. Respondent filed charge sheet, acknowledgement, explanation to show cause notice, charge sheet, enquiry proceeding record, acknowledgement to show cause notice, enquiry report and dismissal order.

9. Petitioner's counsel filed memo conceding validity and legality of the domestic enquiry held by Respondent on 17-3-2009, hence the domestic enquiry was held legal and valid and arguments were heard under Sec. 11 A of the Industrial Disputes Act, 1947 of both parties counsels.

10. It has been argued by the Learned Counsel for the Petitioner that Petitioner was absent due to his ill-health and he produced sick certificate during enquiry proceeding but those were not considered by the Enquiry Officer. He present himself before the Enquiry Officer and stated before him that he was sick during absence period, that was the reason that he could not attend to his duties. The Enquiry Officer has not considered this material aspect of the case nor has applied his mind to the fact of the case and the documents produced by the Petitioner workman during course of enquiry nor he gave any finding regarding the sickness of the workman, thus, the finding of the Enquiry Officer is perverse and the punishment based on such perverse finding is also illegal and invalid and deserves to be quashed.

11. Against this argument of the Learned Counsel for the Petitioner, Learned Counsel for the Respondent has argued that Petitioner has not filed neither sick certificate nor any other document during enquiry proceeding. He admitted his misconduct of absenteeism before the Enquiry Officer that he remained absent due to frequent ill health as such, the finding of the Enquiry Officer is not perverse and Petitioner has been rightly dismissed from service.

11. In view of the arguments, this tribunal has to see,

(I) Whether the action taken against the Petitioner dismissing him from the services of the Respondent company is legal and justified ?

(II) If not, to what relief the Petitioner is entitled to ?

12. Point No. (I) : I have considered material aspect of the argument of the Learned Counsel for the workman and have gone through the enquiry report. The Enquiry Officer has given cogent reasons for not believing to the statement of the workman that he was sick as such, it can not be said that the Enquiry Officer has not considered the evidence of the Petitioner workman nor has applied his mind to the fact of sickness. Moreover, Petitioner alleged that the sick certificates produced were not

considered by the Enquiry Officer, if so, he could have filed the same before this Tribunal in support of his claim, which shows that he has no document to show in support of his alleged sickness. No other material point has been raised by Learned Counsel for the Petitioner. From the evidence on record it is proved that Petitioner workman has remained absent from January, 1997 to December, 1997, he put in only 31 musters during this entire period, as such, the finding arrived at by the Enquiry Officer that Petitioner workman was habitual absentee without any reason, is based on cogent evidence. This tribunal is also of the opinion that there is no ground to interfere with the finding of the Enquiry Officer and action taken by Respondent against workman is fully justifiable based on finding of Enquiry Officer. Point No. (I) is decided accordingly.

13. Point No. (II) : Learned Counsel for the Petitioner has argued that the punishment in the present case is disproportionate to the misconduct committed by the concerned workman. He should have been imposed with a lesser punishment mentioned in para 26(a) to (f) of the Standing Orders. Against this argument of the Learned Counsel for the Petitioner workman, the Learned Counsel for the Respondent has argued that the management has no other option but to dismiss the services of the Petitioner who is a unwilling and careless worker. I have considered this argument. Petitioner appears to be a careless and negligent workman because he remained absent for more than 30 days in a year without any valid reason as such, the punishment imposed upon him cannot be said to be disproportionate or shocking to the conscience of a prudent man, I have considered this argument, Petitioner has put in only 31 musters during entire period of 1997. His absence was without any reason as such, the punishment imposed upon workman is neither excessive nor disproportionate. Petitioner is not entitled to any relief. Point No. II is decided accordingly.

14. From the above discussion, this court is of the opinion that petition deserves to be dismissed and it is dismissed. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 12th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL
Documents marked for the Petitioner	NIL
Documents marked for the Respondent	NIL

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2894.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (एलसीआईडी संख्या 93/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22013/1/2011-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2894.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID/93/2007) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 20-9-2011.

[No. L-22013/1/2011-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 12th day of August, 2011

Industrial Dispute L.C. No. 93/2007

Between :

Sri Inumula Prabhakar

S/o Kondaiiah,

C/o Smt. A. Sarojana, Advocate,

Flat No. G7, Ground Floor, Rajeshwari

Gayatri Sadan, Opp. Badruka Jr. College

For Girls, Kachiguda,

Hyderabad.

...Petitioner

And

1. The General Manager,

M/s. Singareni Collieries Company Ltd.,

RG-II Area, Godavarikhani, Karimnagar District

2. The Superintendent of Mines,

M/s. Singareni Collieries Company Ltd.,

GDK-2A Incline, Godavarikhani,

Karimnagar District

...Respondents

APPEARANCES :

For the Petitioner : M/s. A. Sarojana & K. Vasudeva
Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma &
Vijayalaxmi Panguluri, Advocates

AWARD

This petition under Sec. 2 A(2) of the I.D. Act, 1947 has been filed by Sri Inumula Prabhakar, ex-badli filler to set aside the termination order dated 17-4-2006 and to reinstate the Petitioner workman with full back wages.

2. It is alleged by the Petitioner that he was appointed as badli filler in the year 2001. He was regular to his duties till 2003. During the year 2004 Petitioner suffered with illness and other family problems. He took treatment in various hospitals. A charge sheet dated 22-3-2005 was issued alleging that the Petitioner remained absent during 2004 which amount to misconduct under company's Standing Orders No. 25.25. Respondent management ordered for departmental enquiry. The Enquiry Officer conducted the enquiry with pre-determined notion. The enquiry was not valid in nature. The Enquiry Officer submitted his report holding charges proved. Proceeding dated 17-4-2006 also states that a show cause notice with a copy of enquiry proceeding was sent to the Petitioner's house which returned undelivered, as such, a paper advertisement was issued in Andhra Jyothi newspaper, advising the Petitioner to make representation, if any, against findings of the Enquiry Officer within 7 days. Subsequently, Petitioner was dismissed from service w.e.f. 21-4-2006 vide office order dated 17-4-2006. The Petitioner was absent due to ill-health and the same was stated by the Petitioner before the Enquiry Officer, no challenge was made from the side of the management as such, the submission made by the Petitioner would have been deemed to be correct but the Enquiry Officer has not considered the submission made by the Petitioner workman, Enquiry Officer submitted his enquiry report with a pre-determined notion as such, the order passed on such enquiry report is bad and deserves to be quashed. Proper opportunity was not given to the Petitioner in the enquiry proceeding. Dismissal order based on that enquiry is illegal, arbitrary and is liable to be treated as bad in law. Hence, it is prayed that the impugned order be quashed and the Respondent be directed to reinstate the Petitioner with back wages and all consequential benefits.

3. Management has submitted his reply alleging therein that Petitioner remained absent during the year 2004 which hampered the working of the company, the absence of the Petitioner was without any sufficient cause which is grave misconduct within the Standing Orders 25.25 of the company and dismissal is not bad in the light of the case law reported in 1996(1) SCC 302 State of U.P. and others Vs. Ashok Kumar Singh. Petitioner's contention that he was not afforded proper opportunity is incorrect. Due notices were given to the Petitioner to participate in the enquiry proceeding. The notice was acknowledged by the Petitioner and he participated in the enquiry proceeding. Petitioner did not avail the assistance of co-worker though he was given the opportunity to take the help of a co-worker. Petitioner did not produce any sickness proof, thus

he failed to produce any documentary evidence before the Enquiry Officer. During the years 2001 to 2004 and in 2005 also the Petitioner was not regular to his duties and he has put in 98, 104, 94, 72 and 69 musters respectively in the years 2001 to 2004 and in 2005. This prove that the Petitioner was not sincere to his work. Petitioner was counselled on 6.9.2005 wherein he submitted an undertaking assuring that he will attend more than 20/22 musters and fill not less than 40 tubs per month in future but he attended only 36 days during observation period from 6-9-2005 to 31-12-2005. He intentionally absented himself without any reason or cause. The Petitioner though cited ill health as the cause of his absenteeism, he did not specify the disease with which he was suffering and did not substantiate the same with valid documentary evidence. The company has provided medical facilities by establishing hospitals, the Petitioner did not reported to the company hospital for his sickness thus, his submission that he was absent due to ill-health is unfounded, Enquiry Officer has given his finding on the material placed before him by the management and no fault can be find in the enquiry report, it is based on evidence and Petitioner's dismissal order is not disproportionate to the misconduct committed by him since Petitioner was not regular to his duties company has dismissed him which is neither illegal nor invalid.

4. Parties were directed to produce evidence in support of their claims. Petitioner has filed original dismissal order. However, the Respondent has filed charge sheet, acknowledgement of charge sheet, notice of enquiry, assurance submitted by the Petitioner, entire domestic enquiry proceedings, enquiry report, show cause notice issued to him along with enquiry report, paper publication and dismissal order.

5. Question of the legality and validity of domestic enquiry conducted by the management was considered. It is pertinent to mention that Learned Counsel for the Petitioner moved memo dated 7-7-2009 conceding the validity and legality of the domestic enquiry as such, the domestic enquiry was held to be legal and valid.

6. I have gone through the claim petition, counter statement and documents filed by the parties and written arguments filed by both the parties.

7. It is admitted fact that the Petitioner has put in only 72 musters during the year 2004 for which a charge sheet was issued to the Petitioner against which the Petitioner filed his assurance stating therein that he remained absent because of ill-health and he will be regular in future on the date of enquiry. It is also admitted fact that domestic enquiry was conducted and Petitioner participated in the domestic enquiry. On the basis of the report submitted by the Enquiry Officer dismissal order has been passed against the Petitioner which is under challenge. In this case this tribunal has to consider:—

- (1) Whether the absence of Petitioner during the year 2004 was for any sufficient and reasonable

cause or not and the report of Enquiry Officer is based on evidence or not?

- (2) Whether the punishment imposed upon the Petitioner is disproportionate to the misconduct committed by the Petitioner?

8. Point No.1: The Petitioner has submitted that he was sick due to which he remained absent during the year 2004 and put in 72 musters during the year 2004. His statement was recorded by the Enquiry Officer, during course of the enquiry he stated that he worked for 72 days and remained absent for the rest of days in 2004 due to health problems, but has not been able to provide any single document before the Enquiry Officer to substantiate his allegations. The management has produced Sri R. Sanjeeva Rao, Office Superintendent and Sri S. Mareswara Rao, Paysheet Clerk to prove that Petitioner remained absent without any leave or without any intimation during the year 2004 from January to December. Since absence of the Petitioner was admitted by the Petitioner himself it was the sole duty of the Petitioner to prove that his absence was due to any cogent reason or sufficient cause. Petitioner was not able to prove that his absence during the year 2004 was due to sufficient reason. Though he stated that he was absent due to ill-health but he is not able to provide any evidence or proof in support of his illness or treatment for ill-health. Even, if it is presumed that Petitioner remained absent due to the ill-health why he did not inform his superiors regarding the same has not been explained by the Petitioner. Thus, the finding of the Enquiry Officer that Petitioner's absence during the year 2004 was without any sufficient reason or valid cause is based on evidence and reasoning and no fault can be find in the finding arrived at by the Enquiry Officer.

9. This tribunal is also of the opinion that the Petitioner remained absent without any intimation to his employer during the year 2004 his absence was without any reasonable or sufficient cause and thereby the Petitioner has committed misconduct mentioned in para 25.25 of the Standing Orders of the company. Point No.1 is decided accordingly.

10. Point No.2: So far as the question of punishment is concerned the Petitioner has not been able to justify his absence during the year 2004, he has voluntarily admitted before the Enquiry Officer that he remained absent during 2004 and could attend only 72 musters though the Respondent management has stated in the counter statement that Petitioner remained absent during the year 2001 to 2003 and in 2005 also which was not mentioned in the charge sheet. However, this fact was not brought before the Enquiry Officer also. As such, the previous absence can not be taken into consideration but the absence in the year 2004 is surely a grave misconduct and management has not committed any mistake in passing the punishment of dismissal against the Petitioner. The Learned Counsel for the Petitioner has argued that the Petitioner's family is

starving due to dismissal of the Petitioner against which Learned Counsel for the Respondent has argued that Petitioner himself is responsible for the starvation of the family members, the Petitioner was a unwilling worker who has not cared to perform his duties with sincerity as such, the punishment was proper and interference is not required in this case.

11. I agree with the argument of the Learned Counsel for the Respondent and I am also of the considered opinion that the punishment imposed on the Petitioner is neither excessive nor disproportionate and Petitioner is not a deserving person for any lenient view to be taken in favour of the Petitioner. The Petitioner himself is responsible for the starvation of his family members, no interference is required in the matter of the punishment. Point No.2 is decided accordingly.

12. From the above discussion, this tribunal is of the considered opinion that the clam petition is unfounded, no interference is required in this case. Petitioner is not entitled for any relief, petition deserves to be dismissed and it is dismissed. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 12th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Nil

Witnesses examined for the Respondent Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2895.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (एलसीआईडी संख्या 17/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22013/1/2011-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2895.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID/17/2004) as shown in the Annexure

in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 20-9-2011.

[No. L-22013/1/2011-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 6th day of August, 2011

Industrial Dispute L.C. No. 17/2004

Between :

Sri B. Rajaram,
S/o Bheemaiah,
C/o Smt. A. Sarojana, Advocate,
Flat No. G7, Ground Floor, Rajeshwari
Gayatri Sadan, Opp: Badruka Jr. College
For Girls, Kachiguda,
Hyderabad.Petitioner

And

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
RG-I Area, Godavarikhani, Karimnagar District
2. The Project Manager,
M/s. Singareni Collieries Company Ltd.,
Coal Chemical Complex, Narsapur
Adilabad DistrictRespondents

APPEARANCES :

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijayalaxmi Panguluri, Advocates

AWARD

This petition under Sec.2 A (2) of the I.D. Act, 1947 has been filed by Sri B. Raja Ram, ex-badli filler to set aside the termination order dated 21-2-2003 and to reinstate the Petitioner workman with full back wages.

2. It is alleged by the Petitioner that he was appointed as General Mazdoor in R 1 company in November, 1976 and thereafter he was promoted as Jr. Operator. While so, a charge sheet dated 5-7-1991 was issued alleging unauthorized absenteeism from duties during the period from November, 1996 to July, 1997 which amounts to misconduct under company's Standing Order No.25.25. Management ordered for departmental enquiry. The Enquiry Officer conducted the enquiry with pre-determined notion. The enquiry was not valid in nature. The Enquiry Officer submitted his report. On the basis of enquiry report Petitioner was dismissed from service vide office order dated

21-12-2003. The Petitioner was absent due to ill health of his mother during November, 1996 to July, 1997, as there was nobody else to look after his mother, he has to attend his mother at that time. Petitioner was a member of MPTC, he was assaulted and beaten by the Naxalites, in view of the injuries caused by Naxalites, he submitted representations to Respondent to declare him medically unfit, but management kept his request pending and he was dismissed. Petitioner was not aware of the procedure of the enquiry, he could not participate in the enquiry effectively, resulting in issuance of the impugned order of removal. Had the procedure of enquiry was explained, he could have established the factum of his continued absence. Enquiry Officer submitted his enquiry report with a predetermined notion as such, the order passed on such enquiry report is bad and deserves to be quashed. Proper opportunity was not given to the Petitioner in the enquiry proceeding. Dismissal order based on that enquiry is illegal, arbitrary and is liable to be treated as bad in law. Hence, it is prayed that the impugned order be quashed and the Respondent be directed to reinstate the Petitioner with back wages and all consequential benefits.

3. Management has submitted reply alleging therein that Petitioner remained unauthorizedly absent from 16-5-1992 to 27-9-1996 which hampered the working of the company, the absence of the Petitioner was without any sufficient cause which is grave misconduct within the Standing Orders 25.25 of the company and dismissal is not bad in the light of the case law reported in 1996(1) SCC 302 State of U.P. and others Vs. Ashok Kumar Singh. Petitioner was appointed on 19-11-1976 in Respondent company and promoted as Junior Operator w.e.f. 1-10-1989. He has put in musters as follows:

Year	Actual musters
1992(from 16-5-1992)	NIL
1993	NIL
1994	NIL
1995	NIL
1996(upto 27-9-1996)	NIL

He has not put in 190 musters which is minimum for a ground duty workman in any year. This prove that the Petitioner was not sincere to his work. Therefore, a charge sheet was issued to the Petitioner dated 3/5-7-1997 for unauthorized absence. Petitioner's contention that he was not afforded proper opportunity is incorrect. Due notices were given to the Petitioner to participate in the enquiry proceeding. The notice was acknowledged by the Petitioner and he participated in the enquiry proceeding. Petitioner did not avail the assistance of co-worker though he was given the opportunity to take the help of a co-worker. Petitioner admitted during enquiry that he remained absent without sanctioned leave. Petitioner did not produce any sickness proof, thus he has failed to produce

any document or material before the Enquiry Officer. He intentionally absented himself without any reason of cause. Such unauthorized absence creates sudden void, at a time it is very difficult to fill-up the gap and already planned schedules get suddenly disturbed without prior notice which compelled the Respondent to take severe action against unauthorized absentees. The Petitioner though cited ill health as the cause of his absenteeism, he did not specify the disease with which he was suffering and did not substantiate the same with valid document. Petitioner stated that he was a member of M.P.T.C. and that he was assaulted and beaten by Naxalites, was admitted to hospital with serious injuries, was bed ridden for more than 2 years - all these were not made known to the Respondent. Petitioner's representations to declare him medically unfit and that he was assaulted, injured etc., are put to strict proof. More over, as per Respondent company's rules, any workman against whom disciplinary proceedings are pending cannot be declared as medically unfit. The company has provided medical facilities by establishing hospitals, but Petitioner did not report to the company hospital for his sickness thus, his submission that he was absent due to his and his mother's ill-health is unfounded, Enquiry Officer has given his finding on the material placed before him by the management and no fault can be find in the enquiry report, it is based on evidence and Petitioner's dismissal order is not disproportionate to the misconduct committed by him since Petitioner was not regular to his duties, company has dismissed him which is neither illegal nor invalid.

4. Parties were directed to produce evidence in support of their claims. Petitioner has filed xerox copy of dismissal order dated 21-12-2003. However, the Respondent has filed charge sheet, suspension letter, charge sheet, paper publication, appointment of Enquiry Officer, notice of enquiry, entire domestic enquiry proceedings book, enquiry report, paper publication, explanation, show cause notice issued to him, his explanation against show cause notice and dismissal order.

5. On the point of the legality and validity of domestic enquiry conducted by the management, order sheet transpires that Learned Counsel for the Petitioner conceded the validity and legality of the domestic enquiry on 2-8-2004 by way of memo as such, the domestic enquiry was held to be legal and valid.

6. I have gone through the claim petition, counter statement and documents filed by the parties and written arguments filed by both the parties.

7. It is admitted fact that the Petitioner has put in nil musters during the period from November, 1996 to June, 1997 for which a charge sheet dated 3/5-7-1997 was issued to the Petitioner against which the Petitioner did not submit any explanation. It is also admitted that domestic enquiry was conducted and Petitioner participated in the domestic

enquiry. On the basis of the report submitted by the Enquiry Officer dismissal order has been passed against the Petitioner which is under challenge. In this case this tribunal has to consider:

- (1) Whether the absence of Petitioner during the period from November, 1996 to June, 1997 was for any sufficient and reasonable cause or not and the report of Enquiry Officer is based on evidence or not?
- (2) Whether the punishment imposed upon the Petitioner is disproportionate to the misconduct committed by the Petitioner?

8. Point No.1: The Petitioner has submitted that he was sick due to which he remained absent during the period from November, 1996 to June, 1997. His statement was recorded by the Enquiry Officer, during course of the enquiry he stated that he remained absent due to ill-health and other family problems, but has not been able to provide any single document before the Enquiry Officer to substantiate his allegations. As against this, the management has produced Sri Y. Laxma Reddy, Sp1. Gr. Clerk to prove that Petitioner remained absent without any leave or without any intimation during the period from November, 1996 to June, 1997. Since absence of the Petitioner was admitted by the Petitioner himself it was the sole duty of the Petitioner to prove that his absence was due to any cogent or sufficient cause. Petitioner was not able to prove that his absence during the year period from November, 1996 to June, 1997 was due to sufficient reason. Though he stated that he was absent due to ill-health but he is not able to provide any evidence or proof in support of his illness or treatment for ill-health. Even if it is presumed that Petitioner remained absent due to the ill-health why he did not inform his superiors regarding the same has not been explained by the Petitioner. Moreover, the Petitioner in his claim statement as well as in his arguments mentioned about his mother's sickness as cause of his absence but he said nothing before Enquiry Officer about his mother's sickness. He simply stated that, "I admit that due to my personal and family problems I have absented for duty" which was not supported by producing any valid material or evidence, thus, the finding of the Enquiry Officer that Petitioner's absence during the period from November, 1996 to June, 1997 was without any sufficient reason or valid cause is based on evidence and reasoning and no fault can be found in the finding arrived at by the Enquiry Officer.

9. This tribunal is also of the opinion that the Petitioner remained absent without any intimation to his employer during the period from November, 1996 to June, 1997, his absence was without any reasonable or sufficient cause and thereby the Petitioner has committed misconduct mentioned in para 25.25 of the Standing Orders of the company. Point No.1 is decided accordingly.

10. Point No.2: So far as the question of punishment is concerned the Petitioner has not been able to justify his absence during the period from November, 1996 to June, 1997, he has voluntarily admitted before the Enquiry Officer that he remained absent during period from November, 1996 to June, 1997 and could not attend to duty on the dates mentioned in the charge sheet. Though the Respondent management has stated in the counter statement that Petitioner remained absent and put in nil musters during the years 1992 to 1995 and in 1996 (Upto 27-9-1996) also which was not mentioned in the charge sheet. This fact was not brought before the Enquiry Officer also. As such, the previous absence can not be taken into consideration but the absence during the period from November, 1996 to June, 1997 is surely a grave misconduct and his previous absence prove that Petitioner is not a willing and sincere worker as such, management has not committed any mistake in passing the punishment of dismissal against the Petitioner. The Learned Counsel for the Petitioner has argued that the Petitioner's family is starving due to dismissal of the Petitioner against which Learned Counsel for the Respondent has argued that Petitioner himself is responsible for the starvation of the family members, the Petitioner was a unwilling and negligent worker who has not cared to perform his duties with sincerity as such, the punishment was proper and interference is not required in this case.

11. I agree with the argument of the Learned Counsel for the Respondent and I am also of the considered opinion that the punishment imposed on the Petitioner is neither excessive nor disproportionate and Petitioner does not deserve any leniency. The Petitioner himself is responsible for the starvation of his family members, no interference is required in the matter of the punishment. Petitioner is not entitled for any relief. Point No. 2 is decided accordingly.

12. From the above discussion, this tribunal is of the considered opinion that the claim petition is unfounded, no interference is required in this case. Petitioner is not entitled for any relief, petition deserves to be dismissed and it is dismissed. Hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 6th day of September, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Nil

Witnesses examined for the Respondent Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 20 सितम्बर, 2011

AWARD

का.आ. 2896.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (सीजीआईटी/एलसीआईडी संख्या 151/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22013/1/2011-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2896.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (CGIT/LCID No.151/2004) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 20-9-2011.

[No. L-22013/1/2011-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present: SHRI VED PRAKASH GAUR, Presiding Officer

Dated the 11th day of August, 2011

Industrial Dispute L.C. No. 151/2004

Between :

Sri Mulkala Srinivas,
S/o Ellaiah,
C/o Smt. A. Sarojana, Advocate,
Flat No. G-7, Ground Floor, Rajeshwari
Gayatri Sadan, Opp: Badruka Jr. College
For Girls, Kachiguda,
Hyderabad ...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri, Adilabad District.
2. The Colliery Manager/Dy. General Manager,
M/s. Singareni Collieries Company Ltd.,
KK 5 Incline, Mandamarri.
Adilabad District ...Respondents

APPEARANCES :

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijayalaxmi Panguluri, Advocates

This petitioner under Section 2 A (2) of the I.D. Act, 1947 has been filed by Sri Mukala Srinivas, ex-badli filler to set aside the termination order dated 25-12-1999 and to reinstate the Petitioner workman with full back wages.

2. It is alleged by the Petitioner that he was appointed as badli filler in the year 1997. He was regular to his duties but during the year 1998 the Petitioner suffered with illness and other family problems, as such he could not be regular to his duties. While so, a charge sheet dated 6-8-1998 was issued alleging that the Petitioner was not regular to his duties during the year 1998 which amounts to misconduct under company's Standing Orders No. 25.25. The Petitioner has submitted his explanation but the Respondents were not satisfied and ordered for departmental enquiry. The Enquiry Officer conducted the enquiry with pre-determined notion. The enquiry was not valid in nature. The Enquiry Officer submitted his report on the basis of which a show cause notice was issued to the Petitioner against which Petitioner submitted his reply. The Disciplinary Authority did not consider the submission made by the Petitioner and passed dismissal order on Petitioner w.e.f. 30-12-1999 vide order dated 25-12-1999. The Petitioner was absent due to ill-health and the same was stated by the Petitioner before the Enquiry Officer, no challenge was made from the side of the management as such, the submission made by the Petitioner would have been deemed to be correct but the Enquiry Officer has not considered the submission made by the Petitioner workman. He submitted his enquiry report with a predetermined notion as such, the order passed on such enquiry report is bad and deserves to be quashed. Proper opportunity was not given to the Petitioner in the enquiry proceeding. The action of the Respondents in dismissing the Petitioner from service is illegal, arbitrary, violative of principles of natural justice and hence, be set aside directing the Respondents to reinstate the Petitioner with all consequential benefits etc.

3. Management has submitted his reply alleging therein that Petitioner remained absent for the year 1997 which hampered the working of the company, the absence of the Petitioner was without any sufficient cause which is grave misconduct within the Standing Orders 25.25 of the company and dismissal is not bad in the light of the case law reported in 1996(1) SCC 302 State of U.P. and others Vs. Ashok Kumar Singh. Petitioner's contention that he was charge sheeted for absenteeism during the year 1998 is not correct. He was issued with charge sheet for his absenteeism during the year 1997 Petitioner's contention that he was not afforded proper opportunity is incorrect. Due notices were given to the Petitioner to participate in the enquiry proceeding. The notice was acknowledged by the Petitioner, he submitted explanation to the charge sheet and he participated in the enquiry proceeding. Petitioner did not availed the assistance of co-worker though he was given opportunity to take the help of a co-worker. Petitioner

did not produce any sickness proof, thus he failed to produce any material before the Enquiry Officer. During the year 1997 he had put in 72 actual musters and remained absent rest of the days. This proves that the Petitioner was not sincere to his work. He intentionally absented himself without any reason or cause. The company has provided medical facilities by establishing hospitals, the Petitioner did not reported to the company hospital for his treatment thus, his submission that he was absent due to ill-health is unfounded, Enquiry Officer has given his finding on the material placed before him by the management and no fault can be find in the enquiry report, it is based on evidence and Petitioner's dismissal order is not proportionate to the misconduct committed by him since Petitioner was not regular to his duties company has dismissed him which is neither illegal nor invalid. On submission of his undertaking dated 28-7-1999, assuring that he would put in 22 filling musters every month and fill 2 and more tubs per muster, he was given 3 months observation period from August to October, 1999, but Petitioner had put in 34 musters against total working days of 75. However, he was given one more opportunity for one month and in this month he worked for 15 days out of 26 working days. Thus, his attendance during observation period of 4 months also was not satisfactory inspite of giving opportunity. Hence, the petition be dismissed as devoid of merits.

4. Parties were directed to produce documentary evidence in support of their claims. Petitioner has filed his representation and dismissal order dated 25-12-1999. However, the Respondent has filed charge sheet and acknowledgement, explanation to charge sheet, entire domestic enquiry proceedings file, show cause notice issued to him, his explanation against show cause notice and dismissal order etc.

5. Coming to the point of the legality and validity of domestic enquiry held by the management it is pertinent to mention that Learned Counsel for the Petitioner moved memo dated 6-7-2009 conceding the validity and legality of the domestic enquiry as such, the domestic enquiry was held to be legal and valid.

6. Both parties submitted written arguments as well as oral arguments. I have heard counsels for the parties and have gone through the claim petition, counter statement and documents and written arguments filed by the parties.

7. It has been argued by the Learned Counsel for the Petitioner that Petitioner was absent due to his ill-health but, he could not produce any other documentary evidence in support of his sickness. He presented himself before the Enquiry Officer and stated before him that he was sick that was the reason that he could not attend to his duties. The Enquiry Officer has not considered this material aspect of the case nor has applied his mind to the fact of the case nor he gave any finding regarding the sickness of the workman, thus, the finding of the Enquiry Officer is perverse and the punishment based on such perverse finding is also illegal

and invalid and deserves to be quashed. Against this argument of the counsel for the Petitioner, Learned Counsel for the Respondent management has argued that Petitioner could not produce any proof in support of his sickness nor he has produced any witness in his defence. Moreover, Petitioner has admitted his guilt stating that he remained absent on the dates mentioned in the charge sheet, as such, the enquiry held is neither perverse nor illegal.

8. In view of the arguments, this tribunal has to see—

- (I) Whether the action taken against the Petitioner dismissing him from the services of the Respondent company is legal and justified?
- (II) If not, to what relief the Petitioner is entitled to?

9. Point No.(I): It is admitted fact that the Petitioner has put in only 72 musters during the year 1997 for which a charge sheet dated 6-8-1998 was issued to the Petitioner against which the Petitioner filed his explanation stating therein that he remained absent due to ill-health. It is also admitted fact that domestic enquiry was conducted and Petitioner has participated in the domestic enquiry. On the basis of the report submitted by the Enquiry Officer dismissal order has been passed against the Petitioner. Petitioner's statement was recorded by the Enquiry Officer during the course of the enquiry wherein he stated that he worked for 72 days and remained absent for the rest of days due to health problem. But he has not been able to provide single document before the Enquiry Officer to substantiate his sickness. In his reply dated 30-10-1998 he has not mentioned from what sickness he suffered from and from where did he took treatment. He simply written that he could not perform his duty due to his suffering from ill-health. As against this, the management has produced Sri N. Narsinga Rao, Clerk Gr. I and Sri V.K. Viswanadham, Clerk Grade I, to prove that Petitioner remained absent without any leave or without any intimation during the year 1997. Since absence of the Petitioner was admitted by the Petitioner himself it was the sole duty of the Petitioner to prove that his absence was due to any cogent or sufficient cause. Petitioner was unable to prove that his absence during the year 1997 was due to sufficient reason. Though he stated that he was absent due to ill-health but he was not able to provide any evidence or proof in support of his illness or illness of any of his family members. Even if it is presumed that Petitioner remained absent due to the ill-health why he did not inform his superiors regarding his illness, has not been explained by the Petitioner. Thus, the finding of the Enquiry Officer that Petitioner's absence during the year 1997 was without reason and sufficient cause, is based on evidence and reasoning and no fault can be find in the finding arrived at by the Enquiry Officer.

10. This tribunal is also of the opinion that the Petitioner remained absent without any intimation to his employer during the year 1997, his absence was without any reasonable or sufficient cause and thereby the Petitioner has committed misconduct mentioned in para

25.25 of the Standing Orders of the company. The action of management in terminating the services of Petitioner is legal and justified. Point No.1 is decided accordingly.

11. Point No. 2 : So far as the question of punishment is concerned the Petitioner has not been able to justify his absence during the year 1997, he has voluntarily admitted before the Enquiry Officer that he remained absent during 1997 and could attend only 72 musters but the absence in the year 1997 which is first year of his employment thus his absence from duty is surely a grave misconduct and management has not committed any mistake in passing the punishment of dismissal against the Petitioner. The Learned Counsel for the Petitioner has argued that the Petitioner's family is starving due to dismissal of the Petitioner against which Learned Counsel for the Respondent has argued that Petitioner himself is responsible for the starvation of the family members, the Petitioner was a unwilling worker who has not cared to perform his duties with sincerity as such, the punishment was proper and interference is not required in this case.

11. I agree with the argument of the Learned Counsel for the Respondent and I am also of the considered opinion that the punishment imposed on the Petitioner is neither excessive nor disproportionate and Petitioner is not a deserving person for any lenient view to be taken in favour of the Petitioner. The Petitioner himself is responsible for the starvation of his family members, no interference is required in the matter of the punishment. Point No. 2 is decided accordingly.

12. From the above discussion, this tribunal is of the considered opinion that the claim petition is unfounded, no interference is required in this case. Petitioner is not entitled for any relief, petition deserves to be dismissed and hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 11th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Nil

Witnesses examined for the Respondent Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2897.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 11/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-22012/51/1999-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2897.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL, and their workmen, which was received by the Central Government on 20-9-2011.

[No. L-22012/51/1999-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J.P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/11/1999

Date: 6-9-2011.

Party No. 1: The Sub Area Manager,
WCL, Ballarpur Colliery, PO : Ballarpur,
Distt. Chandrapur,
(Maharashtra)

Versus

Party No. 2: The Joint General Secretary, R.K.K.M.S.,
604, Giripeth, Opp. R.T.O. Office, Nagpur.

AWARD

(Dated : 6th September, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited and their workman Shri Laxman Kallepelli, for adjudication; as per letter No. L-22012/51/99/IR(CM-II) dated 30/31-8-1999, with the following schedule:—

"Whether the action of the management namely Sub Area Manager, Wirur Sub Area of WCL, PO : Wirur (Ballarpur Area of WCL), Distt. Chandrapur in discontinuing the services of Shri Laxman Kallepelli, Ex-casual Mazdoor of Wirur Sub Area is legal and justified? If not, what relief the workman is entitled and from which date? What other directions are necessary in the matter?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union, R.K.K.M.S ("the Union" in short) filed the statement of claim and the management of W.C.L. ("party No. 1" in short) filed the written statement.

The case of the workman as projected by the union in the statement of claim is that the workman was engaged by party No. 1 during the year 1993 and 1994 and he was paid @ Rs. 15/- per day as wages from January 1993 to May 1994 and he was continuously engaged by the party No. 1 and worked for 254 days in 1993 and 94 days in 1994 till 10-5-1994 and in the month of May, 1994, the workman was stopped from employment, without any prior notice or payment of notice pay as required under the provisions of the Act and the certified Standing Orders of party No. 1 and the act of the party No. 1 in stopping the workman from work is illegal and bad in law and the union raised the demand by its letter RKKMS/NWR/12/106 dated 8-2-1999 to the General Manager, WCL, Ballarpur Area demanding the absorption of the workman on the permanent rolls by reinstating in service with continuity and full back wages according to NCWA from May 1994 and the management by its letter dated 13-3-1996, denied about the engagement of the workman in Wirur Sub Area from January 1993 to May 1994 and the union by its letter dated 17-4-1996 requested the management for verification of the cash record regarding payment of wages to the workman and to absorb the workman in work, but the management did not reply to the same, so an industrial dispute was raised by the union before the ALC (Central), Chandrapur and the reference was made by the Government, on submission of failure report by the ALC (Central), Chandrapur. It is further pleaded by the union that one Shri B.P. Kesri was working as the Sub Area Manager of Wirur Sub Area and he was the imprest holder and was drawing cash in advance from the OGM's office and was clearing the imprest cash advance by submitting necessary bill/vouchers in the Accounts department and the said imprest holder was paying wages @ Rs. 15/- per day to the workman through vouchers and the workman was not paid the minimum wages prescribed under NCWA-V, so the party No.1 committed unfair labour practice and the denial of the management of Ballarpur Area of WCL to produce the cash vouchers and cash books relating the period of 1993-94, before the conciliation officer/ALC (Central), Chandrapur indicates that management has been hiding the facts of engaging the workman continuously from January, 1993 to May, 1994 and before wrongfully terminating the workman from services, the party No.1 did not serve any notice and abruptly terminated his services and the workman is entitled for reinstatement in service. Prayer has been made by the union for reinstatement of the workman in service with back wages and other consequential benefits.

3. The party No.1 in its written statement has pleaded inter-alia that the workman was not employed as a casual mazdoor at Wirur Sub Area from January, 1993 to May 1994 and according to the Rules of WCL, no person can be

appointed as casual mazdoor without following the recruitment procedure and approval of the competent authority and when the union took up the case of the workman directly with the General Manager, Ballarpur Area in February 1996, all relevant records with regard to the appointment of casual workers and their payment of wages were checked and it was found that the workman was not appointed as a casual worker at Wirur Sub Area and the union acted unilaterally and by by-passing the initial level of negotiation, directly went to the second higher level and the union also violated the agreed code of conduct and took up the matter directly with ALC (C), without taking up and discussing the case at company level and unless all the agreed channels to negotiation were exhausted and the demand was finally rejected by the management at the highest level, no valid industrial dispute is deemed to have arisen between the management and the union warranting reference to the Tribunal for adjudication. It is further pleaded by the part No. 1 that the union was all along stating that the workman was working as a casual labourer, but it was never stated by the union as to what work was being done by the workman and the union was not sure as to whether the workman was engaged in the mine or in the Sub-Area office and on the basis of the pleadings at paras 18 and 19 of the statement of claim filed by the union, the miscellaneous vouchers of the relevant period at Ballarpur Area office were checked for the relevant period and on checking of the records, it was found that for sanitary cleaning of transit guest house, which was situated outside the Mine's premises of Sub-Area office of Wirur Sub-Area, the workman was engaged occasionally on part time basis for short periods from 26-6-1993 to May 1994 and was paid Rs. 15 per day and he was not engaged for any other work and there was no schedule rate of wages for this kind of part time job and as such, a fixed amount of Rs. 15 per day was arrived at by keeping in view the type of work and time involved and fully appreciating the job performed by him and the time involved in performing the same, the workman was accepting the payment without any protest and grievance and neither during the period in question nor thereafter, for nearly two years, the workman or any union raised any demand or made any protest about the alleged less payment and the records reveal that the workman was not engaged from January, 1993 to May 1994 (wrongly mentioned as 25-6-1993 in the written statement) and he had been deployed part time only for 121 days (70 days in 1993 and 51 days in 1994) during the entire period and he was never stopped by the management but he himself stopped coming to do the job, for the reasons best known to him and he was not an employee of the company and hence, there was no contractual obligation on either side to give work or demand work and there was no employer and employee relationship between the management and the workman and it was not under any legal obligation to give notice to the workman for discontinuance. It is also pleaded by the party No.1 that there was neither any letter of appointment in favour of the workman nor payment of wages was made on the prescribed wage sheets and the

name of the workman was not on the muster rolls i.e. statutory Form "B" register and he was not issued with any Identity card and he was neither interviewed and selected nor medically examined and it has not committed any breach of the Act or Rules made there under or the Certified Standing Orders and the workman is not entitled for any relief. The party No. 1 has given the details of the deployment of the workman in annexure-I attached to the written statement.

4. In support of his claims, the workman besides examining himself as a witness has examined Sattu Narsingh as a witness. Party No. 1 has also examined Vilas Bobate as a witness in support of its claim.

5. The workman has reiterated the facts mentioned in the statement of claim in his examination-in-chief, which is on affidavit. However, in his cross-examination, he has admitted that he was not sponsored by employment exchange and he was appointed by Mr. Kesari and no appointment letter was given and he started working without appointment letter and he was not given office order and did various work as per oral instructions and was being paid Rs. 15 per day and he had not given any written representation for increase of wages and regular appointment and he cannot give the attendance particulars of every month and he has no written proof of attendance and one Shobha was also working and that is why he worked for 23 days in some months.

So far the evidence of Sattu Narsingh is concerned, no reliance can be placed on the as in his examination-in-chief itself he has stated he saw the workman working from 1994 to 1996, whereas, according to the claim petition and the evidence of the workman, the workman worked from January 1993 to May 1994.

6. The witness for the management, Vilas Bobate, who was working as the clerk at Wirur Sub-Area from 20-8-1992 to 21-5-1999, in his evidence has reiterated the facts mentioned in the written statement by the management. The evidence of Bobate that the workman was occasionally engaged on part time basis between 26-6-1993 to May 1994 has not been seriously challenged in the cross-examination.

7. At the time of argument, it was submitted by the union representative that the workman was working from January 1993 to May 1994 and he had completed more than 240 days of attendance on payment of Rs. 15 per day and the oral evidence adduced by the workman clearly shows that the workman worked from January 1993 to May 1994 continuously and as such, the workman is entitled for reinstatement in service with continuity and full back wages.

8. Per contra, it was submitted by the representative of the management that the workman was engaged orally from 26-6-1993 to May 1994 occasionally as a part time worker on payment of Rs. 15 per day and he had not completed 240 days of work during the year 1993 and 1994 and as such, he is not entitled for any relief. In support of such contentions reliance was placed by the management

representative on the decisions reported in 2011 LLR-337 (Union of India and Others Vs. Vartak Labour Union), 2002 LAV I.C. 987 (Range Forest Officer Vs. S.T. Hadimani) and 2005 II LLJ-209 (KSRTC and another Vs. S. G. Kotturappa).

9. In this case, the workman has claimed that he worked for more than 240 days with party No.1, but party no.1 has denied such claim. It is well settled by the Hon'ble Apex Court in a number of decisions including the decision reported 2002 LAB I.C. (Supra) and AIR 2005 SC 2179 (Manager Reserve Bank of India Vs. S. Mani) that the initial burden of proof is on the workman that he had completed 240 days of service in the preceding 12 months of the date of the alleged termination of service and the onus of proof doesn't shift to the employer nor is the burden of proof on the workman discharged, merely because employer fails to prove a defence and filing of affidavit of workman to the effect that he had worked for 240 days continuously or that he had made repeated representations or had raised demands for reinstatement, is not sufficient evidence that can discharge the said burden and filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court of Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year.

In this case, the workman except filing of his affidavit in support of his claim has not filed any other evidence to substantiate his claim. Rather, the documents filed by the management show that the workman worked in between 26-6-1993 to 11-5-1994 and he had not completed 240 days of work during the preceding 12 months of the alleged date of termination of service. Applying the principles enunciated by the Hon'ble Apex Court in the judgment mentioned above to the present case, it is found that the workman has not able to discharge the burden to show that he worked for 240 days with party No. 1 prior to the date of his alleged termination. In view of the failure of the workman to discharge the burden of proving that he worked for 240 days prior to the alleged date of termination, the provisions of section 25-F of the Act are not applicable. The workman is not entitled for any relief as claimed by him. Hence, it is ordered:

ORDER

The action of the management namely Sub Area Manager, Wirur Sub Area of WCL, PO: Wirur (Ballarpur Area of WCL), Distt. Chandrapur in discontinuing the services of Shri Laxman Kallepellia, Ex-casual Mazdoor of Wirur Sub Area is legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2898.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पी.जी.आई. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संख्या 2, चंडीगढ़ के पंचात (संदर्भ संख्या 92/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-42012/126/2004-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2898.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 92/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of PGI, and their workman, received by the Central Government, on 20-9-2011.

[No. L-42012/126/2004-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A.K. Rastogi, Presiding Officer

Case No. I.D. 92/2005

Registered on 17-5-2005

Shri Gurcharan Singh, S/o Shri Mota Singh, R/o House No. 1833, Block-K, Burail Labour Colony No. 5, Sector 45, Chandigarh

...Applicant

Versus

The Director, PGI, Sector-12 Chandigarh ...Respondent

APPEARANCES:

For the workman : Shri D. R. Kaith, Advocate

For the Management : Shri N.K. Zakhmi, Advocate

AWARD

(Passed on Dated: 6th September, 2011)

Central Government vide Notification No. L-42012/126-2004-IR(CM-II)) Dated 13-4-2005 by exercising its powers under Section 10 Sub-Section (1) Clause (d) and Sub-section 2(A) of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) has referred the following Industrial dispute for adjudication to this Tribunal:—

“Whether the action of the management of PGI, Chandigarh in terminating the services of Sh. Gurcharan Singh, Guard w.e.f. 27-4-1999 is legal and justified? If not, to what relief the workman is entitled?”

The workman was duly selected and appointed as Chowkidar under the respondent working since 31-10-1981. According to the claim statement the workman had applied for leave without pay w.e.f. 19-5-1998 to 15-12-1999. He had submitted his application to his immediate officer, the Security Officer. After completion of leave period when the

workman submitted his joining report on 16-2-1999, he was not allowed to join on one pretext or the other and subsequently his termination order dated 20-4-1999/27-4-1999 was handed over to him. He has challenged his termination on the grounds that he was never conveyed the rejection of his leave application, proper procedure was not followed in terminating his services, he was not served with any charge sheet, he was not given any opportunity to defend, he was not informed about the enquiry and the punishment order is disproportionate to the alleged misconduct and is discriminatory. To deprive him from the pension rights is also illegal. He has prayed for setting aside of the punishment order and for reinstatement with continuity in service and full back wages along with interest.

The claim was contested by the respondent and it was denied that the workman had applied for leave. It was submitted that the workman had been charge sheeted vide Memo No. E II (3) PGI - 98/12260-61 dated 28-10-1998 for remaining willfully absent from the duty w.e.f. 20-5-1998 onwards. The workman did not submit any written statement in his defence. Therefore the disciplinary authority ordered for regular enquiry. The Enquiry Officer after conducting enquiry submitted his report to the disciplinary authority. As per the rules a copy of the enquiry report was supplied to the workman but the same was received back from the postal authority undelivered. The disciplinary authority after considering the enquiry report and other facts of the case awarded the major penalty of removal from service with immediate effect. According to the respondent the termination order of the workman is legal and according to rules and regulations.

In support of his case the workman filed his affidavit with a copy of leave application and of punishment order. While on behalf of the management the affidavit of Sh. H.R. Sharma Senior Administrative Officer of the respondent was filed.

I have heard learned counsel for the workman and perused the written arguments also filed on behalf of workman. No written arguments were submitted by the management despite opportunity given to his counsel on 7-12-2010. However some case law submitted earlier, by the learned counsel for the management, is available on record.

Annexure W2 of the affidavit of the management witness shows that the workman was removed from service on the charge of remaining willfully absent from duty. The disciplinary authority considered the charge proved against the workman on the basis of the enquiry conducted against the workman.

The question is whether punishment was awarded to the workman after holding a proper and fair enquiry according to the principles of natural justice. As per law laid down in Syndicate Bank Vs. General Secretary Syndicate Bank Staff Association and another 2000 ILLJ

1630 by the Hon'ble Supreme Court the essentials of the principles of natural justice are:—

1. Workman should know the nature of the complaint or accusation.
2. He must have a opportunity to state his case.
3. The management should act in good faith which means that the action of management should be fair, legal and just.

The enquiry report mentions that on his remaining absent the workman was asked to join duty vide Memo No. E II (3) PGI/98/4311-12 dated 16-7-1998 and Memo No. E II (3) PGI/98/5199 dated 31-7-1998. These letters were sent under registered cover but, received back undelivered.

The workman was charge sheeted vide Memo No. E II (3) PGI/98/12260-61 dated 28-10-1998 and he was informed that an enquiry would be held against him and he was directed to submit his written statement in defence within 10 days. But the charge sheet was also received back undelivered. Thereafter the workman was warned vide letter No. CTU/98/800/411 dated 23-12-1998 under registered AD that if he fails to appear in the enquiry it will be held ex parte against him. But that letter too was received back undelivered. Since the workman did not appear hence, the enquiry proceeded ex parte. The punishment orders also shows that a copy of enquiry report sent to the workman were also received back undelivered. It is thus clear that workman had no knowledge of the charges levelled against him nor he had any knowledge about the enquiry proceedings. Obviously, he did not have the opportunity to defend himself.

The learned counsel for workman has cited the law laid down by the Hon'ble Supreme Court in Union of India vs. Dinanath Shantaram Karekar AIR 1998 SC 2722 in which it was held that if the registered cover containing charge sheet is returned with endorsement "not found" then the document cannot legally be treated to have been served on employee. Authorities should have made further effort to serve it. Actual service is essential since delinquent has to submit his reply. The Hon'ble Supreme Court also held that since very initiation disciplinary proceedings was bad as charge sheet was not served, all subsequent steps including issuance of show cause notice would be bad.

In another case submitted by the learned counsel for the workman Dr. Ramesh Chandra Tyagi Vs. Union of India 1996 (2) SCT 522 show cause notice sent to the delinquent by post had returned unserved with the remark 'left without giving address', none of his family members had given his address and, no other effort had been made to serve notice. It was held by the Hon'ble Supreme Court that the Enquiry Officer was not justified in proceeding ex parte. Enquiry suffered from procedural infirmity and order of dismissal passed on the basis of such an invalid enquiry is invalid and non-est.

On behalf of management the following case law has been submitted :—

1. Sh. NR Sajid Vs. The Karnataka State Road Transport Corporation 2007 LLR 1176.
2. UB. Gadhe and others Vs. G.M. Gujarat Ambuja Cement Pvt. Ltd. 2007 LLR 1178.
3. Tata Engineering and Locomotive Co. Ltd. Vs. Ishwarchand Tarachand Jain and another 2007 LLR 1216.

All these decisions are on the punishment or modification of the punishment. In the present case since the enquiry was not held properly and according to the principles of natural justice the punishment order passed on the basis of an invalid enquiry is invalid and non-est.

It will not be out of place to mention here that none of the parties had ever pressed in this case that the issue of fairness of enquiry should be decided first, nor the respondent pleaded that in case the enquiry is not held proper and fair he must be given an opportunity to prove the charges levelled against the workman.

Since the enquiry on which the impugned punishment order is based has been held to be non-est, the workman is entitled to be treated in continuous service till he reached the age of superannuation. The period of his absence from duty should be treated as leave without pay.

Here a question arises - what should be treated as the period of absence from duty. Admittedly, the workman absented from 20-5-1998. He has stated in his claim statement as well as in his affidavit (Para 2 and 3) that he had submitted his joining report on 16-2-1999, but he was not allowed to join on one pretext or the other and ultimately was handed over the punishment order dated 20/27-4-1999.

Surprisingly the respondent did not controvert in its written statement or in the affidavit of its witness that the workman had submitted his joining report on 16-2-1999 and he had not been allowed to join. The workman was not cross-examined either on this point. It will therefore be proper and fair to treat the workman absent till 15-2-1999. Thus his absence from duty was from 20-5-1998 to 15-2-1999. It is to be treated on leave without pay for this period.

I think order for payment of 50 per cent of back wages for the remaining period of his service will be proper under the circumstances.

From the above going discussion it is clear that the action of the management of PGI in terminating the service of the workman is not legal and justified and is non-est. Workman is entitled to be treated in continuous service till he reached the age of superannuation. The period of his absence from duty from 20-5-1998 to 15-2-1999 will be treated as leave without pay. He is entitled to receive 50 per cent of the back wages for the remaining period of his service. Reference is accordingly answered in favour of the workman. Let two copies of the Award be send to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2899.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑल इंडिया रेडियो और टीवी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलकाता के पंचाट (संदर्भ संख्या 31/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-09-2011 को प्राप्त हुआ था।

[सं. एल-42012/212/2004-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास, डेस्क अधिकारी

New Delhi, the 20th September, 2011

S.O. 2899.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of All India Radio & Televisions, and their workmen, received by the Central Government on 20-09-2011.

[No. L-42012/212/2004-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 31 of 2005

Parties : Employers in relation to the management of All India Radio and Televisions

And

Their Workman

Present : MR. JUSTICE MANIK MOHAN SARKAR,

.... Presiding Officer

APPEARANCES:

On behalf of the : Mr. Ashok Chakraborty,
Management : Ld. Advocate with
Ms. T. Das, Ld. Advocate.

On behalf of the : Mrs. R. Basu, Ld. Advocate
Workmen

State: West Bengal Industry: Radio and Televisions.

Dated, 9th September, 2011

AWARD

By Order No.L-42012/212/2004-IR(CM-II) dated 4-8-2005 and corrigendum of even number dated 11-8-2011 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial

Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the Chief Engineer (Eastern Zone), All India Radio and Televisions, Akashvani Bhawan, 4th Floor, Kolkata-700001 in terminating the services of Sh. Subodh Mondal, S/o Shri Ajit Mondal, Ex-Casual Labour at Cossipore Godown is legal and justified? If not, to what relief the concerned workman is entitled?”

2. As per written statement of claim, the workman was working as casual worker in the office of the Assistant Station Director, Cossipore under the Chief Engineer (EZ), All India Radio and Television and he worked as such for 204 days from 1-1-1991 to 31-12-1991, for 238 days from 1-1-1992 to 31-12-1992 and for 223 days from 1-1-1993 to 11-8-1993. Subsequently the service of the workman was discontinued without serving any notice thereto nor any pay was paid in lieu of such notice. The workman filed one application before the Central Administrative Tribunal, Kolkata Bench which was registered as O.A. No. 236 of 1994 and which was subsequently disposed of with the observation that the application was filed in a wrong forum with further observation that it may be filed in the proper forum as per law and thereafter the present reference has come up. It is stated that the statutory obligation at the time of retrenchment by way of service of notice of termination or to make payment of pay in lieu thereof and payment of compensation have not been performed by the management and thereby the workman concerned claimed that his retrenchment was bad in law for non-compliance of the provision of Section 25F of the Industrial Disputes Act, 1947.

3. The management establishment being All India Radio and Television submitted its written reply stating that the workman concerned was an ex-casual labour under it and his service was not required after 11-8-1993 since the amount of work in the management was reduced so much that in the interest of public service and to reduce the Government exchequer, the service of the workman was discontinued. The management side has stated that there were 39 casual workers in the Cossipore Godown of the management and that was in gross excess of actual requirement which was sufficient with 20 such casual labourers on need basis for miscellaneous work against daily wage and, accordingly, keeping the first 20 persons in engagement, the lower serial of 19 workers were disengaged and among those 19 workers, the workman was one them. The management side considered that the workman concerned was a daily wage or casual labourer and as such no provision, according to it, for observation of the mandatory provision under Section 25F of the Act. It is further stated that appointment letters are generally issued only to the employees selected and appointed in the regular post of the establishment following recruitment procedure and not to the casual workers. The

management side also alleged that the classification of their establishment as an 'industry' and also the workman of the present reference as a 'workman' are not in the strict sense of the statute. The management has further stated that after the amendment of 1971 Act, payment of one month's pay in lieu of notice is not mandatory in respect of the disengagement of the present workman nor there is any provision for payment of compensation to such worker as claimed. Management side has stated that the claim of the workman concerned is stale and also it was belated one and demanded dismissal of the reference.

4. A rejoinder, as usual has been filed on behalf of the workman concerned raising no new issue but it was in the style of reiteration of the story already made in the written statement of claim and so detail mention of the contents is not needed thereof.

5. In the present reference a simple question has been raised in the schedule of the reference to decide whether the termination of the workman, Shri Subhas Chatterjee, a casual under the management from his service was legal or justified. Admittedly, the workman concerned was a casual labour and there is no denial from the side of the management that he was so engaged as a casual labour 11-08-1993 on which date he was disengaged. Since the management felt that the amount of work became reduced to such a level that in the interest of public service, engagement of this worker was not needed to reduce the wastage of money from the Government exchequer.

6. The workman claimed that he was engaged by the management from 1-1-1991 and he continued to work throughout the entire year of 1991 and 1992 ending on 11-8-1993 and thereby the workman claimed that he worked for more than 204 days which qualified him to claim his termination as being illegal as per provision of Section 25F of the Industrial Disputes Act, 1947 since the mandatory provision before his retrenchment was not complied with by the management by way of issuing of notice of termination to him and paying him wages and compensation amount. I find, the management side, though did not disclose as to from which date the workman was engaged by it as a casual labour, ultimately admitted that he worked for the management as a casual labour till before he was terminated on 11-8-1993.

7. Burden to prove the working for more than 240 days, in view of the provision of Section 25F of the Act lies upon the workman who claimed to have worked for such number of days. But, when the management has not denied the engagement of the workman concerned under it as casual worker till before he was terminated on 11-08-1993 and has not specifically disputed the specific period of time of his working under the management as stated by the workman, such burden of proof of work for 240 days shifts upon the management to show that he worked for less than 240 days and is not qualified to get the benefits of the mandatory provision under Section 25F of the Act.

8. Unfortunately no document is forthcoming from either side about the number of days this workman worked under the employer to ascertain whether the workman

concerned actually worked for 240 days or more in 12 calendar months preceding the date of his termination. If the description of the number of days in the pleadings of the respective parties are taken up for such consideration, it is found that the workman concerned has claimed that he worked for 139 days up to 11-8-1993 as per description in the pleading and if the ratio-wise counting is taken up in respect of the number of days, the workman worked in the year 1992, it may be presumed whether the workman concerned worked for 240 days till before he was terminated or disengaged. Employer side stated that the workman concerned worked up to 11-08-1993, though no material is forthcoming from the side of the employer about the dates of his engagement under the employer. Ratio-wise counting may be done in the present case with a presumption of ascertaining the number of days work of the workman concerned in preceding 12 calendar months of the date termination of his termination and in that case, if the admitted date of termination of the workman is taken up for consideration as 11-08-1993, then one-third portion of work done by the workman in the year 1992 just preceding start of 1993 up to 12th August, 1992 totalling 12 calendar months up to 11-8-1993, it will be seen that the workman has worked for around 79 days in the ending part of 1992 to form the period of 12 calendar months ending on 11-8-1993. If the said number of days of work by this workman in year 1992 is taken up then it will be found that the workman concerned has worked up to 218 (79 + 139) till before 11-8-1993 as description of the number of days, has been given by the workman himself in paragraph 1 of his written statement of claim. Practically, the contents of paragraph 1 of the written statement of claim, has not been denied from the side of the employer. Acting upon such a situation of ascertaining the number of days the workman concerned has worked in the year 1992, it is found that the number of days till before his date of termination never comes to 240 days to qualify the present workman to call his termination by the employer on 11-08-1993 to be illegal.

9. The legislature has provided in Sections 25F and 25B of the Industrial Disputes Act, 1947 specific eligibility of the workman to claim notice, pay and compensation at the time of termination as 240 days work in the preceding 12 calendar months just before the date of termination and not less. So, non-compliance of such service of notice or pay and compensation will not qualify the order of termination to give any redress to the workman concerned.

10. In such a position, in absence of proper evidence thereto, I am unable to hold that the termination of the workman was illegal and unjustified on the part of the employer, All India Ratio and Televisions, Kolkata and so the workman concerned is not entitled to any relief in the present reference.

An Award is passed accordingly.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

Dated, Kolkata,
the 9th September, 2011

नई दिल्ली, 20 सितम्बर, 2011

AWARD

का.आ. 2900.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. एक्सपोर्ट इन्स्पेक्शन एजेंसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अरनाकुलम, कोचीन के पंचाट (संदर्भ संख्या 19/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-09-2011 को प्राप्त हुआ था।

[सं. एल-42012/7/2009-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2900.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, Cochin as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Export Inspection Agency and their workmen, which was received by the Central Government on 20-09-2011.

[No. L-42012/7/2009-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri. D. Sreevallabhan, B.Sc., LL.B., Presiding Officer

(Tuesday the 30th day of August, 2011/8th Bhadrapada, 1933)

I.D. No. 19/2009

Workman : Smt. A. Subaida,
Kattanganezhathu Parambu,
Nambiapuram Road, Palluruthy,
Kochi (Kerala)-6.

By Adv. Shri T.A. Rajan.

Management : The Director,
Export Inspection Agency,
3rd Floor, NDYMCA,
Cultural Centre Building,
1st Jai Singh Road,
New Delhi-110001.

By Adv. Shri T. Saji.

This case coming up for final hearing on 9-8-2011 and this Tribunal-cum-Labour Court on 30-8-2011 passed the following.

This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947.

2. The reference is :

“Whether the action of the management of M/s. Export Inspection Agency in termination the services of their workman Smt. A. Subaida w.e.f. 15-02-2008 is legal and justified? If not, what relief the workman is entitled to?”

3. The allegations in the claim statement, in brief, are that the workman Smt. Subaida was engaged as a Sweeper on 26-07-1988 for sweeping and washing works in the laboratory under the Deputy Director, Export Inspection Agency, Kochi and since then she has been in continuous service without any break. Initially she was given a consolidated pay of Rs. 200 per mensem and the same was increased from time to time to Rs. 750 per mensem. Sri Karunakaran and Smt. Kurumbakutty were working as permanent sweepers in the laboratory. Karunakaran died and Kurumbakutty was transferred from the laboratory. Hence she was doing the whole sweeping and washing works in the laboratory. Several representations were made by her for regularizing her service and also for enhancing the wages. Instead of regularizing her service the Deputy Director, Inspection Agency, Kochi made a threat of terminating her from service and hence she approached the Hon'ble High Court of Kerala by filing Writ Petition (C) No. 1657/2008 challenging the proposed move to terminate her from service and also for a direction to regularize her in service. It was disposed of on 15-1-2008 by allowing her to make a fresh representation before the Deputy Director, Inspection Agency, Kochi and he was directed to forward the same along with his remarks to the Joint Director, Inspection Agency, Kochi. In pursuance of the direction she had submitted a representation. Immediately on receipt of the representation she was terminated from service on 15-02-2008 and another person from a private agency was appointed in her place. Hence she filed Writ Petition (C) 6502/2008 challenging the termination of service and the same was disposed of vide judgment dated 1-4-2008 directing the management to consider the termination of service while considering her claim for regularisation. Afterwards her representation for regularisation was rejected by the management by order dated 28-04-2008. The termination of service of the worker is arbitrary, unjust, illegal and also in violation of the provisions of the Industrial Disputes Act. The Export Inspection Agency is an “industry” and the worker is a “workman” as per the provisions of the Industrial Disputes Act. She was in continuous service without any break from 26-07-1988 to 15-02-2008 and hence the termination without compliance with the mandatory requirements under Section 25F of the Industrial Disputes Act is illegal. She was terminated from service as a vengeance for

claiming regularisation by submitting representations. The engagement of another worker from a private agency for a much higher wages of Rs. 2500 per mensem in her place is against S.25-H of the I.D. Act. The termination can only be by retrenchment under Section 25-F of the I.D. Act. The termination as such is illegal and hence she prays for reinstating her with all consequential benefits including back wages and continuity of service.

4. Management filed written statement denying the allegations in the claim statement and stating that it was filed without revealing the actual facts and also suppressing several material facts. It is contended that she was not working continuously as a sweeper under the management from 26-7-1988 without any break of service. She was engaged on day-to-day basis for cleaning as and when required and that too for two hours in a day by making payment on proportionate basis. She was not appointed in any regular vacancy. There is no regular vacancy of Sweeper in the establishment of the management. Since all the recruitment and other conditions etc. of the employees in Export Inspection Agency are governed by the provisions of statutory rules she is not entitled to be regularized in service. No threat was made by the Deputy Director, Export Inspection Agency about her termination from service. She has not got 19 years of service. The establishment where she was working was shifted from Thoppumpady to Panampillynagar and thereafter her service was not required since an agency was entrusted with the sweeping work as per the policy decision of Government of India. There is no question of termination of service of the worker as she was never been appointed under the management. No other person was appointed in her place for cleaning the laboratory. She is not a workman as defined in the I.D. Act, 1947 and hence S.25-F of the Act is not applicable in her case. As the management is a statutory body established under Section 7 of the Export (Quality Control and Inspection) Act 1963 and the recruitment and appointments are regulated by statutory rules, the concept of "industry" to that extent stands excluded. As she was only a temporary worker working on daily wages her disengagement from service cannot be construed to be retrenchment under the I.D. Act. The claim of the worker is not sustainable and hence she is not entitled to any relief.

5. After filing the written statement a rejoinder was filed by the workman denying the contentions put forward by the management and reaffirming the allegations in the claim statement.

6. Evidence was adduced from both sides for the purpose of deciding this reference and it consists of the depositions of WW1, MW1, Exts.W1 to W-10 and M1 to M4 series.

7. The point for determination is :

Whether the termination of the services of the workman by the management is legal and justified and if not what relief she is entitled to ?

8. The Point: In order to answer the reference it is mainly to be considered whether the worker comes within the purview of the definition of "workman" under Section 2(s) of the Industrial Disputes Act. Even though there is the specific allegation in the claim statement that she was engaged as a Sweeper on 26-7-1988 and was in continuous service until termination on 15-2-2008 there is only an evasive denial of the same in the written statement without making any mention of the date of the engagement as a sweeper in the establishment of the management. From Ext.W1 it can be seen that request was made by her for regularisation on 13-8-1992 stating that she was working there as a temporary sweeper from 26th July, 1988. In the reply given to Ext.W1 on 7th October 1992, copy of which is Ext.W2, it is seen to have been informed that her case for regular appointment can be considered along with others as and when vacancy arises in future. She again made a representation for regularisation on 23-3-1998, copy of which was marked as Ext.W3, stating that she was working as temporary sweeper from 26-7-1988. Wage increase is seen to have been sought for by her by making representations marked as Exts.W4 to W6. From Exts.M 1 to M3 it can be seen that the sweeping charges were enhanced pursuant to her representations. From Ext.M4 series it can be seen that monthly wages was paid to her in a lump after deducting the proportionate wages for the days of non attendance of duty.

9. It is the case of the management that she was not appointed as Part Time Sweeper in a regular post and she was engaged as a casual labourer for two hours a day. It is falsified by Ext.M2 wherein she is stated to have been engaged in the morning session for sweeping and cleaning work and also through the other evidence in this case. Anyhow there cannot be any dispute as to the fact that she was engaged for sweeping work by the management by making payment of wages on monthly basis.

10. Whether such a worker is to be treated as a "workman" under section 2(s) of the I.D. Act requires consideration in view of the contention raised in the written statement. S.2(s) reads thus:

"Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison, or
- (iii) who is employed mainly in a managerial or administrative capacity, or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

11. A careful consideration of the definition of "Workman" shows that any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward falls within the scope of the definition of workman irrespective of the fact that there is no written contract of employment. The source of recruitment of the employee, nomenclature and status of the post on which he is appointed and the mode of payment of wages are not very much relevant for determining whether or not an employee falls within the definition of workman.

12. Every person employed in an industry to do manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward is covered by the definition of workman under S. 2(s) of the Act unless his case falls within any of the exceptions enumerated in that Section. It is not at all relevant that the employee is engaged against a regular/permanent/temporary post or he is paid as a daily-wager or as a casual worker or is employed on part-time basis. Even if he is not appointed against a sanctioned post, the employee would be treated as a workman if the ingredients enumerated in S. 2(s) are present in his employment.

13. In several decisions of the Hon'ble Supreme Court and High Courts it was held that Part-time, casual or seasonal labourer will all come within the purview of S. 2(s) of the Industrial Disputes Act, 1947. *Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments* AIR 1974 S.C. 37, *L. Robert D'Souza v. Executive Engineer, Southern Railway*, AIR 1982 SC 854, *State of V.P. v. Rajendra Singh Butola* and another, 2000 (9) SCC 501, *Rajaram Rokde v. Shriram Chintaman Warkar*, 1977 Lab I.C. 1594, *Govindbhai Kanabhai Maru v. N.K. Desai* 1988 Lab. I.C. 505, *Yashwant Singh Yadav v. State of Rajasthan* 1991-1-LLJ-501, *Municipal Board Partapgarh v. Labour Court, Bhilwara* 2003 Lab. I.C. 528, *Simla Devi v. Presiding Officer, Labour Court, Bhatinda* 1997-1-LLJ-788 (P&H) are some of the decisions to which reference can be

made to hold that a part time or casual labour is a workman coming under Section 2(s) of the Industrial Disputes Act.

14. Here in this case the workman was engaged by the management bank as a part time sweeper for a very long time paying monthly wages and there is sufficient reason to hold that she will come within the purview of the definition of "workman" in Section 2(s) of the Industrial Disputes Act.

15. Such a workman can be terminated from service only by complying with the mandatory requirements under Section 25-F of the Industrial Disputes Act. Management has no case that she was not in continuous service of 240 days within the period of one year before termination. From Ext. M4 series it can be clearly seen that she had worked for more than 240 days in the year preceding the date of termination.

16. A bare reading of S. 25-F of the Act shows that retrenchment within the meaning of S. 2(oo) of the Act must satisfy the following requirements:

- (i) that the workman has been given one month's notice: (a) in writing, and (b) indicating the reasons for retrenchment;
- (ii) that the retrenchment must take effect after the expiry of period of notice i.e. one month or else the workman should be paid in lieu of such notice, wages for the period of the notice;
- (iii) that at the time of retrenchment the worker has been paid compensation equivalent to 15 days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (iv) that the notice in the prescribed manner is served on the appropriate Government or on the specified authority as notified.

17. In the decision reported in *Pramod Jha and Others v. State of Bihar and Others* (2003) 4 Supreme Court Cases 619 it was held that compliance with clauses (a) and (b) of S. 25-F is mandatory and compliance with clause (c) is directory for which substantial compliance would be enough.

18. Section 25-F of the Act is applicable in the case of the workman in this case. Neither any notice as contemplated under Section 25-F of the Act was served to her nor she was paid compensation in lieu of the said notice. No 'retrenchment compensation' was also paid. It cannot be said that the provisions of S. 25-F of the Act were duly complied with. It has been time and again held by the Apex Court that the non compliance of the mandatory provisions of S. 25-F of the Act would render the termination of service void ab initio. In one amongst those decisions reported in *Mohanlal v. M/s. Bharat*

Electronics Ltd., (1981) 3 SCC 225 the Apex Court has categorically held that the termination of service without compliance of the mandatory requirements of S. 25-F cannot be treated as valid retrenchment for termination of service.

19. A futile attempt was made by the learned counsel for the management to substantiate the contention that there are statutory rules for recruitment and as to conditions of service and hence the Export Inspection Agency cannot be treated as an industry to that extent. There is no specific contention in the written statement that the management is not an industry coming within the purview of the definition under Section 2(j) of the Industrial Disputes Act, 1947. Maintainability of the reference is also not challenged based on any such reason. No evidence was adduced to prove that the Export Inspection Agency is not an industry. Even in the proof affidavit filed by MW1 there is no whisper that Export Inspection Agency is not an industry even for any limited purpose. It has come out in evidence that the management is engaged in commercial activity. Hence it can be found that Export Inspection Agency is an industry coming within the purview of Section 2 (j) of the said Act. It cannot be said that it is not an industry for certain purposes.

20. It is after submitting the original of Ext.W8 representation dated 11-2-2008 by the workman for regularisation pursuant to the direction of the Hon'ble High Court in Ext.W7 judgment she was terminated from service w.e.f. 15-2-2008 without any compliance of the mandatory provisions contained in S. 25-F of the Industrial Disputes Act. The case put forward by the management that engagement of another agency for sweeping and cleaning work as per the policy decision of Government of India is not substantiated by adducing any reliable evidence. No valid reason is made out for the sudden termination of service of the workman immediately after the submission of the representation for regularisation. For the reasons stated above it is found that the termination of service of the workman w.e.f. 15-2-2008 is unjust and illegal.

21. As it is found that the retrenchment is illegal it is to be considered whether she is to be reinstated or monetary compensation would meet the ends of justice in lieu of reinstatement. Relief of reinstatement should not be automatically given in every case of retrenchment in violation of S. 25-F. It is to be considered based on the facts and circumstances in each case. Sudden provocation for retrenchment appears to be the filing of the O.P. in Ext.W7 case and the submission of representation dated 11-2-2008 for regularisation. It is immediately after submitting the representation she was terminated from service. It has come out in evidence that there is existence of vacancy in sweeper post. MW1 has stated during his cross examination that Karunakaran and Kurumbakutty

were working as permanent sweepers and Karunakaran died in the year 1988 while he was in service and Kurumbakutty was transferred before 1988. It was further stated by him that those posts were not filled up with any regular hand. When a suggestion was put to him during his cross examination that the workman in this case was in continuous service from 26-7-1988 up to the date of termination of service on 15-2-2008 he pretended ignorance and stated that he is not aware whether she was in continuous service during that period. She is seen to have been terminated from service without any valid reason. Taking into consideration of the entire facts and circumstances in this case it can be treated as a fit case for reinstatement of the workman with full back wages and continuity of service. There is no case that she was having any employment after termination from service. Hence she is to be reinstated with continuity of service and back wages @ Rs.750 per mensem.

In the result an award is passed finding that the termination of the workman Smt. A. Subaida w.e.f. 15-2-2008 is not legal and justifiable and directing the management to reinstate her with continuity of service and back wages from the date of termination till the date of reinstatement.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 30th day of August, 2011.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the Workman

WW1 - A. Subaida, Workman.

Witness for the Management

MW1 - E. Krishna Potti, Deputy Director, Export Inspection Agency, Kochi.

Exhibits for the Workman

- W1 - Photocopy of the representation dated 13-8-1992 submitted by the worker to the Director (I & Q/ C), Export Inspection Council of India, New Delhi.
- W2 - Photocopy of letter dated 7-10-1992 of the Joint Director, Export Inspection Agency, Cochin to the workman.
- W3 - Photocopy of the representation dated 23-3-1998 submitted by the worker to the Director (I & Q/ C), Export Inspection Council of India, New Delhi.
- W4 - Photocopy of the representation dated 2-3-2005 submitted by the worker to the Director (I & Q/ C), Export Inspection Council of India, New Delhi.

- W5 - Photocopy of the representation dated 7-2-2001 submitted by the worker to the Joint Director, EIA, Cochin.
- W6 - Photocopy of the representation dated 1-5-2007 submitted by the worker to the Joint Director, EIA, Kochi.
- W7 - Photocopy of the judgment dated 15-1-2008 in W.P. (C) No. 1657 of 2008 (V) of the Hon'ble High Court of Kerala.
- W8 - Photocopy of the representation dated 11-2-2008 Submitted by the worker to the Deputy Director, EIA, Kochi.
- W9 - Photocopy of the judgment dated 1-4-2008 in W.P. (C) No. 6502/2008 (Y) of the Hon'ble High Court of Kerala.
- W10 - Photocopy of the letter dated 28-4-2008 of the Joint Director, Export Inspection Agency, Kochi.
- Exhibits for the Management**
- M1 - Photocopy of the Letter No.CN/ADMN/III(21)2001 dated 15-2-2001 addressed to the Deputy Director-in-charge, EIA, Cochin by the Deputy Director.
- M2 - Office note No.EIA:CN:TL:ADMN: 1 : 2001-02/1157 dated 6-11-2001 regarding the enhancement of wages of Contingent Sweepers.
- M3 - Letter No.ADMN/III(21)2001-2002/10963-10965 dated 22-3-2002 addressed to the Deputy Director/Assistant Director, Export Inspection Agency, Cochin by the Joint Director-in-charge.
- M4 - The wage slip/voucher dated 31-1-2004 for the receipt of Rs.575 as wages for the month of January, 2004.
- M4(a) - The wage slip/voucher dated 1-3-2004 for the receipt of Rs. 555 as wages for the month of February, 2004.
- M4(b) - The wage slip/voucher dated 5-4-2004 for the receipt of Rs. 575 as wages for the month of March, 2004.
- M4(c) - The wage slip/voucher dated 1-7-2004 for the receipt of Rs. 625 as wages for the month of June, 2004.
- M4(d) - The wage slip/voucher dated nil for the receipt of Rs. 625 as wages for the month of July, 2004.
- M4(e) - The wage slip/voucher dated 4-10-2004 for the receipt of Rs. 625 as sweeping charges for the month of September, 2004.
- M4(f) - The wage slip/voucher dated 30-11-2004 for the receipt of Rs. 625 as sweeping charges for the month of November, 2004.
- M4(g) - The wage slip/voucher dated 3-1-2005 for the receipt of Rs. 625 as sweeping charges for the month of December, 2004.
- M4(h) - The wage slip/voucher dated nil for the receipt of Rs.625 as sweeping charges for the month of January, 2005.
- M4(i) - The wage slip/voucher dated 1-3-2005 for the receipt of Rs. 625 as sweeping charges for the month of February, 2005.
- M4(j) - The wage slip/voucher dated nil for the receipt of Rs.625 as sweeping charges for the month of March, 2005.
- M4(k) - The wage slip/voucher dated 30-5-2005 for the receipt of Rs. 750 as sweeping charges for the month of May, 2005.
- M4(l) - The wage slip/voucher dated 1-7-2005 for the receipt of Rs.750 as sweeping charges for the month of June, 2005.
- M4(m) - The wage slip/voucher dated 2-8-2005 for the receipt of Rs. 750 as sweeping charges for the month of July, 2005.
- M4(n) - The wage slip/voucher dated nil for the receipt of Rs.750 as sweeping charges for the month of August, 2005.
- M4(o) - The wage slip/voucher dated nil for the receipt of Rs.750 as sweeping charges for the month of September, 2005.
- M4(p) - The wage slip/voucher dated nil for the receipt of Rs.750 as sweeping charges for the month of October, 2005.
- M4(q) - The wage slip/voucher dated 30-11-2005 for the receipt of Rs.750 as sweeping charges for the month of November, 2005.
- M4(r) - The wage slip/voucher dated 2-1-2006 for the receipt of Rs. 750 as sweeping charges for the month of December, 2005.
- M4(s) - The wage slip/voucher dated 31-1-2006 for the receipt of Rs. 750 as sweeping charges for the month of January, 2006.
- M4(t) - The wage slip/voucher dated 3-4-2006 for the receipt of Rs. 750 as sweeping charges for the month of March, 2006.
- M4(u) - The wage slip/voucher dated nil for the receipt of Rs.750 as charges for cleaning the Lab premises for the month of April, 2006.

- M4(v) - The wage slip/voucher dated 3-6-2006 for the receipt of Rs. 750 as charges for sweeping the laboratory premises for the month of May, 2006.
- M4(w) - The wage slip/voucher dated nil for the receipt of Rs. 750 as charges for sweeping the Lab premises for the month of June, 2006.
- M4(x) - The wage slip/voucher dated nil for the receipt of Rs. 726 as charges for cleaning the Lab premises for the month of July, 2006.
- M4(y) - The wage slip/voucher dated 3-8-2006 for the receipt of Rs. 750 as charges for cleaning the Lab premises for the month of August, 2006.
- M4(z) - The wage slip/voucher dated nil for the receipt of Rs. 750 as sweeping charges for the month of September, 2006.
- M4(aa) - The wage slip/voucher dated nil for the receipt of Rs. 677 as sweeping charges for the month of October, 2006.
- M4(ab) - The wage slip/voucher dated 2-12-2006 for the receipt of Rs. 750 as charges for cleaning the Laboratory premises for the month of November, 2006.
- M4(ac) - The wage slip/voucher dated 1-1-2007 for the receipt of Rs. 750 as charges for sweeping the Laboratory premises for the month of December, 2006.
- M4(ad) - The wage slip/voucher dated 1-2-2007 for the receipt of Rs. 750 as charges for sweeping the Laboratory premises for the month of January, 2007.
- M4(ae) - The wage slip/voucher dated 3-7-2007 for the receipt of Rs. 750 as charges for sweeping the Laboratory premises for the month of February, 2007.
- M4(af) - The wage slip/voucher dated 3-4-2007 for the receipt of Rs. 750 as charges for sweeping the Laboratory premises for the month of March, 2007.
- M4(ag) - The wage slip/voucher dated 3-5-2007 for the receipt of Rs. 750 as charges for sweeping the Laboratory premises for the month of April, 2007.
- M4(ah) - The wage slip/voucher dated 2-6-2007 for the receipt of Rs. 750 as charges for sweeping the Laboratory premises for the month of May, 2007.
- M4(ai) - The wage slip/voucher dated 3-7-2007 for the receipt of Rs. 750 as charges for cleaning the Laboratory premises for the month of June, 2007.

- M4(aj) - The wage slip/voucher dated 3-8-2007 for the receipt of Rs. 750 as charges for cleaning the Laboratory premises for the month of July, 2007.
- M4(ak) - The wage slip/voucher dated 3-9-2007 for the receipt of Rs. 750 as charges for cleaning the Laboratory premises for the month of August, 2007.
- M4(al) - The wage slip/voucher dated 4-10-2007 for the receipt of Rs. 750 as charges for cleaning the Laboratory premises for the month of September, 2007.
- M4(am) - The wage slip/voucher dated 2-11-2007 for the receipt of Rs. 750 as charges for cleaning the Laboratory premises for the month of October, 2007.
- M4(an) - The wage slip/voucher dated 30-11-2007 for the receipt of Rs. 750 as charges for sweeping the Laboratory premises for the month of November, 2007.
- M4(ao) - The wage slip/voucher dated 8-1-2008 for the receipt of Rs. 750 as sweeping charges for the month of December, 2007.

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2901.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारत संचार निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 61/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-40011/39/2007-आई आर (डीयू)]
जोहन तोपनो, अवसर सचिव

New Delhi, the 20th September, 2011

S.O. 2901.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 61/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 20-9-2011.

[No. L-40011/39/2007-IR (DU)]
JOHAN TOPNO, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 12th day of August, 2011

Industrial Dispute No. 61 /2007

Between :

Sri T.V. Ramana Murthy,
 District Secretary,
 National Federation of Telecom Employees,
 24-25-40, Durgapuram,
 Vijayawada - 520 003.Petitioner

AND

The General Manager,
 Bharat Sanchar Nigam Ltd.,
 BSNL Bhawan, Chuttugunta,
 Vijayawada - 520 002.Respondent

Appearances :

For the Petitioner : M/s. V. Venkateswara Rao & U.
 Kalyani, Advocates

For the Respondent : M/s. M. C. Jacob & K. Ajay Kumar,
 Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-40011/39/2007-IR (DU) dated 1-11-2007 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Bharat Sanchar Nigam Ltd., and their workman. The term of reference is as under :

SCHEDULE

"Whether the action of the management of BSNL in denying one Time Bound promotion in daftly cadre to Shri N. Venkaterwarlu w.e.f. 1997 is legal and justified? If not, to what relief the concerned workman is entitled to and from which date?"

The reference is numbered in this Tribunal as I.D. No. 61/2007 and notices were issued to the parties.

2. Petitioner has filed claim statement stating therein that he was appointed on 16-4-1981 as Group 'D' non-test category and was promoted to Group 'D' in test category on 22-10-1981 and further promoted to Deftry on 1-10-1986. As per the letter No. TA/STA/9-1/Rlgs/VI dated 18-4-1991, officials who have been promoted daftries from cadre covered under the OTBP scheme may be allowed to opt for the OTBP scale in the basic cadre in the terms of the instructions issued by the DOT-New Delhi provided other conditions set out therein are satisfied. It is submitted that officials in higher cadres of Group 'C' and 'D' of the

Department of Telecom who are covered by the One Time Bound Promotion Scheme may be allowed option to dray pay in basic (original) cadre, if it is advantageous to them. Such officials who opt for such OTBP scale of basic cadre will never, continue to work in the existing cadre such as Transmission Assistant, wireless operator etc. Petitioner further submitted that under OTBP scheme the persons who have completed 16 years of service are eligible to such promotion and Petitioner is eligible to such promotion in the year 1997 as he has completed 16 years of service, but he was not informed of his eligibility for the same. Petitioner is not aware of the rules thoroughly. Petitioner made representations to the Respondent after knowing about the circulars but he was informed after 4 ½ years that his request for promotion under OTBP scheme in the basic cadre is regretted due to belated submission of the option. Petitioner further states that one Sri J. Sanker Babu, Phone Inspector's case was considered for the same though he made belated option. Hence, he prays to direct that Respondent to consider the option exercised by the Petitioner and to grant pay and allowances from 1997 onwards.

3. Counter statement has been filed by the Respondent management. It is stated by the Respondent that Petitioner has been appointed initially as Group D in the non-Test category and he was promoted as Daftly in the pay scale of Rs. 775-1025 w.e.f. 1-10-1986. Department has introduced One Time Bound Promotion (OTBP) scheme to certain cadres in Group C and D in the Department by proceedings dated 17-12-1983 to overcome the stagnation. It was communicated to the officials by proceedings dated 20-11-1990 and the option should be exercised within six months from the date of issue of orders or the date of eligibility for the same in the basic cadre which ever is later and the option once exercised shall be final. Later by proceedings dated 14-3-1991 the case of the employees promoted as Daftries was examined by the Department and intimated that the officials who have been promoted as daftries from the cadres covered under the OTBP scheme may be allowed to opt for the OTBP scale in basic cadre in terms of the instructions issued dated 20-11-1990 provided all other conditions set out therein are satisfied. It is submitted that the Petitioner is due for OTBP on 16-4-1997 taking the 16 years of service in the basic cadre from 16-4-1981 and six months period expires on 15-10-1997, but the Petitioner made representation on 24-4-2001 which was replied on 6-8-2001, intimating that the request for OTBP cannot be entertained as the option is belated as such, the dispute raised by the Petitioner is liable to be dismissed.

4. Petitioner's evidence was closed due to his absence. Respondent filed chief examination affidavit of Sri M. Panakala Rao who marked documents Ex. M1 to M7. Neither Petitioner nor his counsel appeared to cross examine Respondent's witness MW1 as such cross examination of MW1 forfeited.

5. Petitioner called absent on the date of argument. There is none to argue the case and there is nothing on the record in support of claim of the Petitioner and in absence of the evidence a 'Nil Award' is passed Transmit.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 12th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
Nil	MW1: Sri M. Panakala Rao

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

- Ex. M1: Copy of letter dated 6/7-1-1984 along with the Time Bound Promotion Scheme
- Ex. M2: Copy of letter dated 31-1-91
- Ex. M3: Copy of Lr. No. TA/STA/9-1/Rlgs/VI dtd. 18-4-1991
- Ex. M4: Copy of Lr. No. TA/EST/1-1/V CPC/97/VII dtd. 2-5-2001
- Ex. M5: Copy of OM No. 5/1/98-IC-I dtd. 12-2-2001
- Ex. M6: Copy of Lr. No. VT/8T-23-OTBP/Gr D.RM/II/121 dtd. 6-8-2001.
- Ex. M7: Copy of Lr. No. VT/ST-23/OTBP/Gr. D—RM/II/130 dtd. 30-4-2004

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2902.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 65/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-09-2011 को प्राप्त हुआ था।

[सं. एल-40011/43/2007-आई आर (डीयू)]
जोहन तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2902.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2007) of the Central Government Industrial Tribunal-Cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited and their

workman, which was received by the Central Government on 20-09-2011.

[No. L-40011/43/2007-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 12th day of August, 2011

Industrial Dispute No. 65/2007

Between :

Sri T.V. Ramana Murthy,
District Secretary,
National Federation of Telecom Employees,
24-25-40, Durgapuram,
Vijayawada - 520 003.Petitioner

AND

The General Manager,
Bharat Sanchar Nigam Ltd.,
BSNL Bhawan, Chuttugunta,
Vijayawada - 520 002.Respondent

APPEARANCES :

For the Petitioner : M/s. V. Venkateswara Rao & U.
Kalyani, Advocates

For the Respondent : M/s. M. C. Jacob & K. Ajay Kumar,
Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-40011/43/2007-IR (DU) dated 30-11-2007 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Bharat Sanchar Nigam Ltd., and their workman. The term of reference is as under :

SCHEDULE

"Whether the action of the management of BSNL in not considering the option for one Time Bound promotion in Daftly cadre w.e.f. 1992 made by Shri N. Premaiah is legal and justified? If not, to what relief the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 65/2007 and notices were issued to the parties.

2. Petitioner has filed claim statement stating therein that he was appointed on 23-3-1965 as Peon and Group 'D' employee in non-test category and was promoted to Group 'D' in test category on 3-8-1966 and further promoted to Deftry on 13-10-1976. As per the letter No. TA/STA/9-1/Rlgs/VI Dated 18-4-1991, officials who have been promoted

daftries from cadre covered under the OTBP scheme may be allowed to opt for the OTBP scale in the basic cadre in the terms of the instructions issued by the DOT-New Delhi provided other conditions set out therein are satisfied. It is submitted that officials in higher cadres of Group 'C' and 'D' of the Department of Telecom who are covered by the One Time Bound Promotion Scheme may be allowed option to draw pay in basic (original) cadre, if it is advantageous to them. Such officials who opt for such OTBP scale of basic cadre will never, continue to work in the existing cadre such as Transmission Assistant, Wireless Operator etc. Petitioner further submitted that under OTBP scheme the persons who have completed 16 years of service are eligible to such promotion and Petitioner is eligible to such promotion in the year 1992 as he has completed 16 years of service, but he was not informed of his eligibility for the same. Petitioner is not aware of the rules thoroughly. Petitioner made representations to the Respondent after knowing about the circulars but he was informed after 4 ½ years that his request for promotion under OTBP scheme in the basic cadre is regretted due to belated submission of the option. Petitioner further states that one Sri J. Sanker Babu, Phone Inspector's case was considered for the same though he made belated option. Hence, he prays to direct that Respondent to consider the option exercised by the Petitioner and to grant pay and allowances from 1992 onwards.

3. Counter statement has been filed by the Respondent management. It is stated by the Respondent that Petitioner has been appointed initially as Group D in the non-test category and he was promoted as Daftary in the pay scale of Rs. 200-250 w.e.f. 13-10-1976. Department has introduced One Time Bound Promotion (OTBP) scheme to certain cadres in Group C and D in the Department by proceedings dated 17-12-1983 to overcome the stagnation. It was communicated to the officials by proceedings dated 20-11-1990 and the option should be exercised within six months from the date of issue of orders or the date of eligibility for the ~~same~~ in the basic cadre which ever is later and the option once exercised shall be final. Later by proceedings dated 14-3-1991 the case of the employees promoted as Daftaries was examined by the Department and intimated that the officials who have been promoted as daftries from the cadres covered under the OTBP scheme may be allowed to opt for the OTBP scale in basic cadre in terms of the instructions issued dated 20-11-1990 provided all other conditions set out therein are satisfied. It is submitted that the Petitioner is due for OTBP on 1-6-1981 taking the 16 years of service in the basic cadre from 1-6-1965 (leaving the boy peon service) and six months period expires on 13-9-1991, but the Petitioner made representation on 27-11-2003 which was replied on 30-4-2004, intimating that the request for OTBP can not be entertained as the option is belated as such, the dispute raised by the Petitioner is liable to be dismissed.

4. Petitioner's evidence was closed due to his absence. Respondent filed chief examination affidavit of Sri M. Panakala Rao who marked documents Ex. M1 to M7. Neither Petitioner nor his counsel appeared to cross examine Respondent's witness MW1 as such cross examination of MW1 forfeited.

5. Petitioner called absent on the date of argument. There is none to argue the case and there is nothing on the record in support of claim of the Petitioner and in absence of the evidence a 'Nil Award' is passed Transmit.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 12th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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Nil

MW1: Sri M. Panakala Rao

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

- Ex. M1: Copy of letter dated 6/7-1-1984 along with the Time Bound Promotion Scheme
- Ex. M2: Copy of letter dated 31-1-91
- Ex. M3: Copy of Lr. No. TA/EST/9-1/Rigs/VI dtd. 18-4-1991
- Ex. M4: Copy of Lr. No. TA/EST/1-1/V CPC/97/VII dtd. 2-5-2001
- Ex. M5: Copy of OM No.5/1/98-IC-I dtd. 12-2-2001
- Ex. M6: Copy of Lr. No. VT/8T-23-OTBP/Gr. D.RM/II/121 dtd. 6-8-2001.
- Ex. M7: Copy of Lr. No. VT/ST-23/OTBP/Gr. D.RM/II/130 dtd. 30-4-2004

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2903.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार में औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 64/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-09-2011 को प्राप्त हुआ था।

[सं. एल-40011/42/2007-आईआर (डीयू)]

जोहन् तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2903.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2007) of the Central Government Industrial Tribunal-Cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited and their workmen, which was received by the Central Government on 20-09-2011.

[No. L-40011/42/2007-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT AT HYDERABAD

Present : SHRI VED PRAKASH GAUR, Presiding Officer

Dated the 12th day of August, 2011

Industrial Dispute No. 64/2007

Between :

Sri T.V. Ramana Murthy,
District Secretary,
National Federation of Telecom Employees,
24-25-40, Durgapuram,
Vijayawada - 520 003.Petitioner

AND

The General Manager,
Bharat Sanchar Nigam Ltd.,
BSNL Bhawan, Chuttugunta,
Vijayawada - 520 002.Respondent

APPEARANCES :

For the Petitioner : M/s. V. Venkateswara Rao and U.
Kalyani, Advocates

For the Respondent : M/s. M. C. Jacob and K. Ajay
Kumar, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-40011/42/2007-IR (DU) dated 30-11-2007 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Bharat Sanchar Nigam Ltd., and their workmen. The term of reference is as under :

SCHEDULE

“Whether the action of the management of BSNL in not considering the option for one Time Bound

Promotion in Daftry Cadre w.e.f. 1992 made by Shri J.R. Koteswara Rao is legal and justified? If not, to what relief the workman is entitled to ?”

The reference is numbered in this Tribunal as I.D. No. 64/2007 and notices were issued to the parties.

2. Petitioner has filed claim statement stating therein that he was appointed on 20-11-1965 as Peon and as Group ‘D’ non-test category on 18-9-1967 and was promoted to Group ‘D’ in test category on 1-8-1968 and further promoted to Daftry on 13-10-1976. As per the letter No. TA/STA/9-1/Rlgs/VI Dated 18-4-1991, officials who have been promoted daftries from cadre covered under the OTBP scheme may be allowed to opt for the OTBP scale in the basic cadre in the terms of the instructions issued by the DOT-New Delhi provided other conditions set out therein are satisfied. It is submitted that officials in higher cadres of Group ‘C’ and ‘D’ of the Department of Telecom who are covered by the One Time Bound Promotion Scheme may be allowed option to draw pay in basic (original) cadre, if it is advantageous to them. Such officials who opt for such OTBP scale of basic cadre will never, continue to work in the existing cadre such as Transmission Assistant, wireless operator etc. Petitioner further submitted that under OTBP scheme the persons who have completed 16 years of service are eligible to such promotion and Petitioner is eligible to such promotion in the year 1992 as he has completed 16 years of service, but he was not informed of his eligibility for the same. Petitioner is not aware of the rules thoroughly. Petitioner made representations to the Respondent after knowing about the circulars but he was informed after 4 ½ years that his request for promotion under OTBP scheme in the basic cadre is regretted due to belated submission of the option. Petitioner further states that one Sri J. Sanker Babu, Phone Inspector’s case was considered for the same though he made belated option. Hence, he prays to direct that Respondent to consider the option exercised by the Petitioner and to grant pay and allowances from 1992 onwards.

3. Counter statement has been filed by the Respondent management. It is stated by the Respondent that Petitioner has been appointed initially as Group D in the non-test category and he was promoted as Daftry in the pay scale of Rs. 200-250 w.e.f. 13-10-1976. Department has introduced One Time Bound Promotion (OTBP) scheme to certain cadres in Group C and D in the Department by proceedings dated 17-12-1983 to overcome the stagnation. It was communicated to the officials by proceedings dated 20-11-1990 and the option should be exercised within six months from the date of issue of orders or the date of eligibility for the same in the basic cadre whichever is later and the option once exercised shall be

final. Later by proceedings dated 14-3-1991 the case of the employees promoted as Daftries was examined by the Department and intimated that the officials who have been promoted as daftries from the cadres covered under the OTBP scheme may be allowed to opt for the OTBP scale in basic cadre in terms of the instructions issued dated 20-11-1990 provided all other conditions set out therein are satisfied. It is submitted that the Petitioner is due for OTBP on 1-6-1982 taking the 16 years of service in the basic cadre from 1-6-1966 and six months period expires on 13-9-1991, but the Petitioner made representation on 24-4-2001 which was replied on 6-8-2001, intimating that the request for OTBP cannot be entertained as the option is belated as such, the dispute raised by the Petitioner is liable to be dismissed.

4. Petitioner's evidence was closed due to his absence. Respondent filed chief examination affidavit of Sri. M. Panakala Rao who marked documents Ex. M1 to M9. Neither Petitioner nor his counsel appeared to cross-examine Respondent's witness MW1 as such cross examination of MW1 forfeited.

5. Petitioner called absent on the date of argument. There is none to argue the case and there is nothing on the record in support of claim of the Petitioner and in absence of the evidence a 'Nil Award' is passed Transmit.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 12th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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Nil	MW1: Sri M. Panakala Rao
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Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Ex/M1: Copy of letter dated 6/7-1-1984 along with Time Bound Promotion Scheme

Ex/M2: Copy of letter dated 31-1-91

Ex/M3: Copy of Lr. No. TA/STA/9-1/Rlgs/VI dt. 18-4-1991

Ex. M4: Copy of Lr. No. TA/EST/1-1/V CPC/97/VII dt. 2-5-2001

Ex/M5: Copy of OM No.5/1/98-IC-I dt. 12-2-2001

Ex/M6: Copy of representation of the Petitioner worker

Ex/M7: Copy of representation of the Petitioner worker

Ex. M8: Copy of Lr. No. VT/8T-23-OTBP/Gr. D.RM/II/121 dt. 6-8-2001

Ex. M9: Copy of Lr. No. VT/ST-23-OTBP/Gr. D.RM/II/130 dt. 30-4-2004

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2904.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्दल सिल्क बोर्ड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद केन्द्रीय सरकार में औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 47/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-09-2011 को प्राप्त हुआ था।

[सं. एल-42025/6/2011-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2904.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2009) of the Central Government Industrial Tribunal-Cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Central Silk Board and their workman, which was received by the Central Government on 20-09-2011.

[No. L-42025/6/2011-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 4th day of August, 2011

Industrial Dispute L.C. No. 47/2009

Between :

Sri M. Yesudas,
S/o Late M. Prema Nandan,
R/o 1/118, Tetacher's Colony,
Yadiki, Anantapur District.

....Petitioner

AND

1. Chief Executive Officer & the Member
Secretary, Central Silk Board,
Ministry of Textiles, Government of India,
BTM Layout, Madirala,
Bangalore—560068

2. Central Sericultural Research & Training Institute,
Sirampura, Manandavdi Road, Mysore,

3. The Joint Director,
Regional Sericultural Research Station,
Raptadu, Anantapur District.Respondents

APPEARANCES:

For the Petitioner : M/s. G. Ravi Mohan & Vikas
Sharma, Advocates

For the Respondent : Sri. S.S. Varma, Advocates

AWARD

This petition under Sec. 2A (2) of the I.D. Act, 1947 was filed by Sri M. Yesudas, ex-employee of Respondents to set aside the impugned order of Respondent dated 11-9-2006 and to reinstate him in the service with full back wages and other service benefits.

2. Sri M. Yesudas has filed claim statement stating there in that he was appointed as Driver by the 2nd Respondent and was posted as 3rd Respondent in the year 1989. Petitioner's daughter in law gave a complaint against the Petitioner and her husband alleging that the Petitioner sought for additional dowry. On the said issue he was called by the Inspector of Police Mahila Police Station, Cuddapah on 1-8-2005 but on the same day he was arrested and detained till 4-8-2005. On the said issue he was issued with suspension order dated 8-9-2005 alleging that the Petitioner was detained for more than 24 hours in a criminal offence and issued with a charge sheet for which Petitioner gave explanation. Without considering the explanation enquiry was conducted, basing on the enquiry report he was imposed a punishment of compulsory retirement by treating the suspension period as not on duty for all purposes which is illegal, arbitrary and unjust. The Police filed a final report in Cr. No. 42/05 U/s. 498(A) 3, 4 I.D. Act, stating that it is a false case and accordingly the case was closed. Petitioner prayed to set aside the order of punishment dated 11-9-2006 and Respondent be directed to reinstate the Petitioner into service with all consequential benefits.

3. Respondent has filed counter statement. It is submitted by the Respondent that the Petitioner was staff car driver, Grade-II working at RSRS, Ananthapur, On the ground of his arrest by the police and detaining for 4 days at police station w.e.f. 1-8-2005 to 4-8-2005 he was placed under suspension by orders dated 8-9-2005. On the issue he was charge sheeted, an enquiry was conducted as per rules and basing on the enquiry report he was imposed a major penalty of compulsory retirement. It is submitted that the Petitioner was charge sheeted for his misconduct committed by him under CCS CCA Rules, 1965. His appeal was also considered and rejected by upholding the orders of the Disciplinary Authority vide

orders 16-1-2007. Hence, the petition is liable to be dismissed.

4. Case is fixed for evidence of Petitioner worker. On 4-7-2011 both parties called absent. Workman is not attending to his case for last several dates as such, workman's evidence is closed, so is case of Respondent. Hence, a 'Nil' Award is passed in absence of evidence.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 4th day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

Nil

Witnesses examined for
the Respondent

Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2905.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/ आर/ 340/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-40012/275/1999-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2905.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R /340/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 20-9-2011.

[No. L-40012/275/1999-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR

No. CGIT/LC/R/340/99

Presiding Officer : SHRI MOHD. SHAKIR HASAN

Shri Ghasiram Bilala,
 S/o Gangaram Bilala,
 R/o Vill. Nipania,
 Tehsil Badhodiya,
 Shajapur Distt.

...Workman

Versus

Chief General Manager
 Deptt. of Telecommunication,
 Hoshangabad Road, M.P.Circle,
 Bhopal (MP)

...Management

AWARD

Passed on this 9th day of September 2011

1. The Government of India, Ministry of Labour vide its Notification No. L-40012/275/99-IR(DU) dated 19-11-1999 has referred the following dispute for adjudication by this tribunal :—

" Whether the action of the management of Chief General Manager Telecom and their workman Shri Ghasiram Bilala S/o Gangaram Bilala w.e. f. 26-3-99 is justified? If not, to what relief the workman is entitled?"

2. The case of the workman in short is that he was engaged as a casual labour in the month of November 1987 and was working under Sub-Divisional Engineer, Telecom Shajapur and was terminated from the service on 31-3-1999 without any notice or without complying the provision of Section 25-F of the Industrial Dispute Act, 1947 (in short the Act, 1947). He had worked more than 240 days in a calendar year. It is alleged that he was paid less wages prescribed under the Minimum Wages Act. The termination is illegal. It is submitted that the workman be reinstated with back wages.

The management appeared and filed Written Statement by way of reply. The case of the management, inter alia, is that the applicant/workman was never engaged by the management and therefore the question of regularization or reinstatement doesnot arise. Since he was never engaged, the question of termination doesnot arise and the provision of the Act, 1947 is not applicable in the case. On these grounds, the reference be answered.

4. After filing statement of claim, the workman became absent. As such the reference proceeded ex parte against the workman on 17-1-2011.

5. On the basis of the pleadings of the parties, the following issues are framed—

I. Whether the action of the management in terminating the services of the workman w.e.f. 26-3-99 is justified?

II. To what relief, the workman is entitled?

6. Issue No. I

To prove the case, the management has examined one witness. Management witness Shri Bhagchand Joshi is sub-Divisional Engineer at Shajapur. He has stated that the applicant/workman was never engaged by the management and the case is baseless. His evidence is unrebutted. There is no reason to disbelieve this witness. Thus it is clear that the claim of the workman appears to be not justified. Accordingly this issue is decided.

7. Issue No. II

On the basis of the discussion made above, the workman is not entitled to any relief. The reference is accordingly answered.

8. In the result, the award is passed without any order to costs.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2906.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/91/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-40012/64/1997-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2906.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/91/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Post and their workman, which was received by the Central Government on 20-9-2011.

[No. L-40012/64/1997-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR****NO. CG IT/LC/R/91/198**

Presiding Officer: SHRI MOHD. SHAKIR HASAN

Shri Bhogilal,
S/o H.C. Rathore,
R/o Pashupathinathji Road,
Mudhri Mohalla,
Mandsour (MP)

...Workman

VersusPost Master,
Head Post Office, Mandsour
Mandsour (MP)

...Management

AWARD

Passed on this 8th day of September 2011

1. The Government of India, Ministry of Labour vide its Notification No. L-40012/64/97-IR(DU) dated 17-4-98 has referred the following dispute for adjudication by this tribunal :—

" Whether the action of the management of Post Master, Head Post Office, Mandsour in terminating Shri Bhogilal S/o Hukumchandji w.e.f. 14-2-84 is justified? If not, to what relief the workman is entitled for?"

2. The case of the workman in short is that the workman was appointed on 11-12-82 as E.D.M.C by the Post Master Mandsour. A criminal case under Section 3241.P.C was pending before his appointment which was ended on acquittal on 24-9-1983. It is stated that on the report of the District Magistrate, his service was terminated on 14-2-1984 without any enquiry which is unfair labour practice and illegal. It is submitted that the workman be reinstated with back wages.

3. The management appeared and filed Written Statement. The case of the management, inter alia, is that admittedly the workman was appointed on the post of E.D.M.C on 11-12-1982, by the Post Master, Main Post Office, Mandsour but at the time of appointment, a criminal case was pending which was ended on 24-9-1983 on the basis of compromise. It is stated that at the time of appointment, the workman had concealed the facts in his application that a criminal case was pending and he was arrested in the said case and as such he was not entitled to be reconsidered for his appointment. It is stated that the Post Master is justified in terminating his service and the reference be answered in favour of the management.

4. The workman appeared and was represented through lawyer. But subsequently he became absent. The then Tribunal issued notices and when it is satisfied that the workman did not appear inspite of proper notice, the Tribunal proceeded the reference ex parte against the workman on 30-8-07.

5. On the basis of the pleadings, the following issues are for adjudication—

I. Whether the action of the management in terminating Shri Bhogilal w.e. f. 14-2-1984 is justified?

II. To what relief, the workman is entitled?

6. Issue No. I

To prove the case, the management has adduced oral and documentary evidence. The management witness Shri Abdul Halim Khan has supported the case of the management. He has stated that admittedly the workman was appointed on 11-12-1982. He has further stated that the workman had furnished wrong information in his application at the time of appointment. This itself shows that his appointment was ab-initio illegal as he had concealed the facts in his application. It shows that since the appointment was ab-initio illegal, the management is justified in terminating his service. The management has filed the order dated 14-2-1984 of termination. This issue is accordingly decided in favour of the management.

7. Issue No. II

On the basis of the discussion made above, there is no merit in the case of the workman and therefore he is not entitled to any relief. Accordingly the reference is answered.

8. In the result, the award is passed without any order to costs.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2907.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेंट ऑफ पोस्ट अफिसेस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/68/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-40012/220/1991-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2907.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP/68/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sr. Suptd. of Post Offices and their workman, which was received by the Central Government on 20-9-2011.

[No. L-40012/220/1991-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/68/2003

Date: 14-9-2011

Party No. 1

The Sr. Suptd. of Post Offices,
Amravati Division, Amravati Camp,
Amravati- 444602

Versus

Party No. 2

Shri K.K. Bhagwat, Divisional President,
All India Postal Employees Union,
Postmen & Class IV, Amravati Division,
Amravati - 444602

AWARD

(Dated: 14th September, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Sr. Suptd. of Post Office and their workman Shri Maroti Raghaji Kale to the Central Government Industrial Tribunal, Jabalpur for adjudication, as per letter No.L-40012/220/91-IR(DU) dated 25-06-1992, with the following schedule:—

"Whether the action of the management of Sr. Suptd. of Post Offices, Amravati in terminating the services of Shri Maroti Raghaji Kale, Extra Departmental Branch Postmaster, Dhanora Mogal w.e.f. 9-5-1991 is justified? If not, what relief he is entitled to?"

Subsequently, the reference was transferred to this Tribunal for adjudication according to law.

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union, All India Postal Employees Union, Postmen & Class IV ("the Union" in short) filed the statement of claim and the management of Sr. Suptd. of Post Office, Amravati ("party no. 1" in short) filed the written statement.

The case of the workman as projected in the statement of claim is that he was appointed as the Extra Departmental Branch Post Master ("EDBPM" in short), Dhanora Mogal in the district of Amravati on 30-06-1990 and he worked as such, uninterruptedly upto 07-05-1991 and during the period of his service, the sub-divisional inspector of post offices, Amravati inspected the branch post office and did not observe any defect or fault in his work and there was also no complaint against him from any quarter and after taking over charge as EDBPM, he came to know from the sub divisional inspector, Mr. Sahade, that the management of postal department, Amravati had called for the list of candidates for the post of EDBPM, Dhanora Mogal from the employment exchange, Amravati twice and from the said lists, no candidate was found suitable for the job and Mr. Sahade asked him to apply for the said post for his regularization on permanent basis and accordingly, he submitted an application in August 1990 along with all the required documents through Mr. Sahade and thereafter worked continuously and on 07-05-1991, all of a sudden, without any prior notice or intimation, he was instructed by Mr. Sahade to vacate the office, by making over charge to one Shri Ashok D. Gulhane, a resident of Dhanora Mogal and under pressure and compulsion, he made over the charge to the new incumbent by obeying the orders of Mr. Sahade and as per his information, the new incumbent was not at all sponsored by the employment exchange and he was a close relative of Mr. Sahade and he along with the union representatives called on the management and Mr. Sahade in May 1991 and June 1991, regarding his re-appointment, but of no avail and the oral termination of his services by the management is illegal and arbitrary. The workman has prayed for his reinstatement in service with continuity and full back wages.

3. The party no.1 in its written statement pleaded inter alia that the workman was never appointed as EDBPM of Dhanora Mogal and his father was working as the EDBPM of Dhanora Mogal and he retired from service on superannuation, on completion of 65 years of age and on retirement of his father, the workman started working in the place of his father, without there being any appointment letter in his favour and the sub-divisional inspector (West), Amravati inspected the office of branch post office, Dhanora Mogal in the normal course of annual inspection and that did not mean that the workman was required to

be continued in the said post, for the reason that no fault was found in his working as EDBPM and the annual inspection had got no relevancy with the appointment of the workman in the said post. The further case of the party no. 1 is that nomination from employment exchange for the post of the EDBPM, Dhanora Mogal was called for by it and the names received from the employment exchange, Amravati were examined and upon examination, as it was found that none of the candidates was suitable, a notification dated 01-10-1991 was issued, calling for applications for the said post but however, the workman did not apply for the said post with reference to the notification, and his earlier application was considered for giving a reasonable opportunity to compete in the matter but as the workman was found of having no house/residence at Dhanora Mogal, he was not found suitable for appointment to the said post and the documents put forth by the workman did not show that he was suitable for permanent appointment as EDBPM, Dhanora Mogal and as the workman was not found suitable, charge of the said post was taken from him and was handed over to the Shri A.D. Gulhane, who had applied for the said post in pursuance to the notification dated 01-10-1991 and was found suitable and the case of the workman was not at all a termination and as such, he was entitled to any prior intimation or notice and Shri Gulhane is not at all a close relative of Mr. Sahade and as such, the workman is not entitled for any relief.

4. Though the workman filed his affidavit in support of his claims, he did not appear for cross-examination and as such, his evidence on affidavit cannot be taken into consideration.

It is necessary to mention here that the management filed the affidavit of witness. Rameshwar in support of its claim. As nobody appeared on behalf of the workman to cross-examine the witness, the cross-examination was closed. Hence the evidence of the witness for party no. 1 on affidavit remained unchallenged.

5. At the time of argument, it was submitted by the learned advocate for the management that as no evidence was adduced by the workman and the evidence of the witness for the management has remained unchallenged, the reference is to be dismissed and the appointment of the workman was a stop gap arrangement, due to the retirement of the father of the workman and the workman was not appointed as per recruitment rules and he was found not suitable for the job after verification of his application and Shri Gulhane was selected on the basis of the notification issued by the management and as such, the workman cannot claim any right for regularization in service as per settled law and he is not entitled for any relief. In support of such contentions, the learned advocate

for the management placed reliance on the decisions reported in 2006 (4) SCC page 1 (Secretary State of Karnataka Vs. Umadevi) and 2007 (3) Mh. L.J. 882 (Prakash Vs. Punjab & Sindh Bank).

6. Perused the record including the statement of claim and the written statement. In this case the workman has challenged the oral termination of his service as illegal. So, the burden of proof was on the workman to show that the termination of his services was illegal, by adducing evidence in support of the same. No evidence has been adduced on behalf of the workman. On the other hand, the evidence of the witness examined on behalf of the management, which is on affidavit has remained unchallenged. In absence of any evidence to hold that the termination of the services of the workman is illegal, the workman is not entitled to get any relief. Hence, it is ordered:

ORDER

The action of the management of Sr. Suptd. of Post Offices, Amravati in terminating the services of Shri Maroti Raghoji Kale, Extra Departmental Branch Postmaster, Dhanora Mogal w.e.f. 09-05-1991 is justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2908.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/22/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-40012/257/2001-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2908.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP/22/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Department of Posts and their workman, which was received by the Central Government on 20-9-2011.

[No. L-40012/257/2001-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR****Case No. CGIT/NGP/22/2002**

Date: 14-9-2011

Party No. 1:

The Sub Post Master,
Sub Post Office, AT/PO /Daryapur,
Amravati.

Versus**Party No. 2:**

Shri Jagdeo S/o Shriram Dhunde,
R/o Bhimnagar, Ward No. 3,
Daryapur, Amravati (M.S.)

AWARD

(Dated : 14th September, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the Sub Post Master, Sub Post Office, AT/PO /Daryapur, and their workman, Shri Jagdeo S/o Shriram Dhunde for adjudication, as per letter No. L40012/257/2001-IR(DU) dated 24-01-2001, with the following schedule:—

"Whether the action of the management of Sub-Post Master, Daryapur, Distt. Amravati in terminating the services of Shri Jagdeo S/o Shriram Dhunde as sweeper, w.e.f. 19-03-2001 vide their order dated 19-03-2001 is proper, legal and justified? If not, to what relief the said workman is entitled to?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the workman, Shri Jagdeo S/o Shriram Dhunde ("the workman" in short) filed the statement of claim and the management of the Sub-Post Office, Daryapur ("the Party No. 1" in short) filed the written statement.

The case of the workman as projected in the statement of claim is that he was in the employment of the party no. 1, w.e.f. 08-05-99, as a sweeper and he was in continuous service till 19-03-2001, with clean and excellent service record and as he had completed more than 240 days of continuous service, he had acquired the status of a permanent employee and the nature of work, which he was doing is a regular nature of work, but despite the same, he was continued on daily rated basis, on a consolidated salary of Rs. 739 per month and the party

no. 1 instead of regularizing his services, terminated his service w.e.f. 19-03-2001 and before such termination, the party no. 1 did not comply the mandatory provisions of section 25-F of the Act and he was not paid the retrenchment compensation and notice pay, in lieu of the notice and no seniority list was published before termination of his service and therefore, the termination of his service is illegal, arbitrary and malafide and the work, which he was performing is still available with party no. 1. The workman has prayed for his reinstatement in service with continuity, back wages and other consequential reliefs.

3. The party no. 1 in the written statement has pleaded inter-alia that one Shri H.C. Patil was working as an extra-departmental delivery agent at sub-post office, Daryapur and as disciplinary action was started against Shri Patil on 24-05-99, so he was placed under put off duty and therefore, one Shri R.C. Patil, who was working as part time Safaiwala was engaged provisionally in place of Shri H.C. Patil to work as the extra departmental delivery agent and as such, the post of part time Safaiwala fell vacant and hence, the workman was engaged provisionally in the post of Shri R.C. Patil and the said arrangement was made for a temporary period and the engagement of the workman was made purely as a stop gap arrangement and during such temporary engagement, the work man remained absent from duty for the period from 08-11-99 to 10-11-99, 18-04-2000 to 20-04-2000 and 22-08-2000 to 24-08-2000 and as such, the workman had never completed 240 days of work in one calendar year. It is further pleaded by the party no. 1 that as the disciplinary proceeding against Shri H.C. Patil was finalized on 24-01-2002 and he was posted to his original post of E.D.D.A, Shri R.C. Patil, who had been engaged in place of Shri H.C. Patil was asked to work in his original post of part time Safaiwala on 19-03-2002, as such, the services of the workman was terminated w.e.f. 19-03-2002 and the termination of the workman was not illegal, arbitrary and malafide and as the engagement of the workman was provisional and on temporary basis, the question of maintenance of seniority list of such part time worker did not arise and therefore, no seniority list of such part time employees was displayed and the provisions of sections 25-F and 25-G of the Act are not applicable and there is no vacant post in the department at present and as such, there is no question of reinstatement of the workman in service and the workman is not entitled to any relief.

4. In support of his claim, the workman examined himself as a witness. In his examination-in-chief, which is on affidavit, the workman has reiterated the facts mentioned in the statement of claim. In his cross-examination, the workman has admitted that H.C. Patil was working as the E.D.D.A. at Daryapur and there was departmental action against him and he was placed under put off duty and

R.C. Patil was working as a sweeper at Daryapur and as H.C. Patil was placed under put off duty, R.C. Patil was working in his place and he was engaged by R.C. Patil to work in his place and no appointment order was given to him and he had never asked for appointment order and as R.C. Patil joined as safaiwala on 19-03-2002, he was discontinued.

5. One Nagorao Domaji Shapekar was examined as a witness on behalf of the party no.1 and in his evidence, he has also reiterated the facts mentioned in the written statement. However, in his cross-examination, he has stated that he has no personal knowledge regarding for how many days and on what capacity, the workman had worked.

6. At the time of argument, it was submitted by the learned advocate for the workman that the workman was employed on 08-05-99 as a sweeper and he had completed more than 240 days of work and instead of regularizing his services, the party no.1 terminated his service w.e.f. 19-03-2001 and before such termination, mandatory provisions of section 25-F of the Act were not complied with and neither one month's notice nor one month's wages, in lieu of the notice nor retrenchment compensation was given to the workman and seniority list was not displayed and therefore, the termination of the service of the workman is illegal and the same is to be set aside and the claim of the party no.1 that the engagement of the workman was a stop gap arrangement is quite false and the party no. 1 has not produced any document in support of the same and the workman is entitled for reinstatement.

7. Per contra, it was submitted by the learned advocate for the management that the workman had not completed 240 days of continuous work and he was appointed in a stop gap arrangement as a substitute of part time employee and the workman has admitted the same in his evidence and it is well settled that temporary stop gap arrangement employee has no right of appointment and as the workman was engaged as a substitute against temporary vacancy for a limited period, his engagement was discontinued, which is not a termination or retrenchment and as such sections 25-F and 25-G are not applicable to his case.

8. On perusal of the pleadings of the parties and the evidence, both oral and documentary on record, it is found that the workman worked as a part time sweeper from 08-05-99 to 19-03-2001 continuously and his services were terminated on 19-03-2001. According to the workman, the termination of his services amounts to retrenchment and as he had completed more than 240 days of continuous work in the preceding 12 months prior to his termination, the party no. 1 was bound by law to comply with the provisions of sections 25-F and 25-G of the Act and due to such non-compliance of the mandatory provisions, his termination is illegal and he is entitled for reinstatement.

On the other hand the party no. 1 has claimed that the engagement of the workman was a stop gap arrangement and as such, the termination of his services is not a retrenchment and the workman is not entitled for any relief.

For better appreciation of the matter, I think it proper to mention the definition of retrenchment as provided in section 2 (oo) of the Act. According to the definition, "retrenchment" means the termination by the employer of the service of a workman for any reason what so ever, otherwise than as a punishment inflicted by way of disciplinary action but doesn't include-

(a) Voluntary retirement of the workman; or

(b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concern contains a stipulation in that behalf; or

(c) Termination of the service of the workman as a result of the non renewal of the contract of employment between the employer and the workman concern on its expiry or of such contract being terminated under a stipulation on that behalf contained therein; or

(d) Termination of the service of a workman on the ground of continued ill health.

In this case, it is admitted by the workman in his cross-examination that Shri H.C. Patil was working as an E.D.D.A at Daryapur and there was departmental action against him and as such, he was placed under put off duty and R.C. Patil who was working as a sweeper at Daryapur, worked in place of Shri H.C. Patil as H.C. Patil was placed under put off duty and he was engaged by R.C. Patil to work in his place. He has also admitted that R.C. Patil joined as safaiwala on 19-3-2002 and as such, he was discontinued. It is clear from the above admission of the workman that he was engaged by R.C. Patil, the part time safaiwala on a contract basis. It can also be presumed that there was a stipulation that whenever R.C. Patil will join his original post, the engagement of the workman will be discontinued and accordingly when R.C. Patil joined his original duty on 19-3-2002, the workman was disengaged.

It was submitted by the learned advocate for the workman that party no.1 did not produce any document in respect to the departmental action against Shri H.C. Patil and the engagement of R.C. Patil in place of H.C. Patil and the engagement of the workman by R.C. Patil and therefore the contentions of the party no.1 should not be believed. However, I find no force in the said contention, as it is well settled that admitted facts need not be proved. As in this case the workman himself has admitted about the said facts, there was no need for the party no. 1 to produce the documents.

As in this case, it is found that the workman was engaged under a contract and his contract was terminated under the stipulation on that behalf, the termination of his service cannot be said to be retrenchment and therefore, the provisions of sections 25-F and 25-G are not applicable. Hence it is ordered;

ORDER

The action of the management of Sub-Post Master, Daryapur, Distt. Amravati in terminating the services of Shri Jagdeo S/o. Shriram Dhunde as sweeper, w.e.f. 19-03-2001 vide their order dated 19-03-2001 is proper, legal and justified. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2011

का.आ. 2909.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रीजनल इंस्टीट्यूट ऑफ एज्युकेशन, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, अजमेर के पंचाट (संदर्भ संख्या) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-42012/18/2006-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th September, 2011

S.O. 2909.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.) of the Central Government Industrial Tribunal-cum-Labour Court, Ajmer as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Regional Institute of Education and their workman, which was received by the Central Government on 20-9-2011.

[No. L-42012/18/2006-IR (DU)]

JOHAN TOPNO, Under Secy.

अनुबन्ध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर

पीठासीन अधिकारी—श्री. मनोज कुमार व्यास, आर.एच.जे.एस.

प्रकरण संख्या-सी.आई.टी.आर. 4/06

रेफरेंस संख्या एल-42012/18/2006 दिनांक 15-9-2006

श्री पप्पू गहलोत पुत्र श्री हेमा जी माली निवासी गगवाना
अजमेर

-प्रार्थी

बनाम

प्रिंसिपल, रीजनल इंस्टीट्यूट ऑफ एज्युकेशन, पुष्कर रोड
अजमेर

-अप्रार्थी

उपस्थिति

प्रार्थी की ओर से : श्री एस. के. सक्सेना/श्री आशीष सक्सेना,
अधिवक्ता

अप्रार्थी की ओर से : श्री कृष्णावतार, अधिवक्ता

अवार्ड

दिनांक 4-8-2011

श्रम विभाग, केन्द्र सरकार, द्वारा इस न्यायालय के अधिनिर्णायार्थ निम्न रेफरेंस प्रेषित किया गया है:-

"Whether the action of the Principal, Regional Institute of Education, Ajmer in terminating the services of their workman Shri Pappu. Gahlot S/o Shri Hemaji Mali w.e.f. 11-1-2005 is legal and justified ? If not, to what relief the workman is entitled to ?"

2. नोटिस के उपरांत उभयपक्ष उपस्थित आये। प्रार्थी श्रमिक की ओर से प्रस्तुत स्टेटमेंट ऑफ क्लेम में यह कहा गया है कि भारत सरकार के श्रम मंत्रालय के आदेश दिनांक 15-9-06 द्वारा औद्योगिक विवाद के निस्तारण हेतु रेफरेंस निम्न प्रकार से प्रेषित किया गया है:- "आया प्रिंसिपल, रीजनल इंस्टीट्यूट ऑफ एज्युकेशन, अजमेर द्वारा श्रमिक पप्पू गहलोत पुत्र श्री हेमा जी माली को दिनांक 11-1-2005 से सेवा मुक्त किये जाने का आदेश वैध एवं उचित है ? यदि नहीं तो श्रमिक किस अनुतोष हेतु पात्रता रखता है ?"

3. प्रार्थी श्रमिक राजस्थान सरकार के यातायात विभाग द्वारा जारी ड्राइविंग लाइसेंस धारी ड्राइवर है तथा उसे लाइट मोटर व्हीकल चलाने का अनुभव प्राप्त है तथा पिछड़ा वर्ग का सदस्य है। सैकेंडी परीक्षा में वर्ष 87-88 में अनुत्तीर्ण रहा है। प्रार्थी का पंजीयन रोजगार कार्यालय में 5-10-95 को किया गया था जिसका नवीनीकरण समय-समय पर किया गया है। प्रार्थी ने दैनिक वेतन भोगी ड्राइवर के रूप में अपनी सेवायें प्रतिवादी संस्था के अधीन 26-7-02 से 11-1-05 तक ईमानदारी एवं निष्ठा से की है। प्रार्थी ने इस प्रकार दैनिक वेतन भोगी ड्राइवर पद पर तीन वर्ष तक सेवायें दी थी और दिनांक 11-1-05 को सेवा से हटाये जाने से पूर्व एक वर्ष की अवधि में 240 दिन से अधिक अवधि तक कार्य किया है तथा श्रमिक की परिभाषा में आता है। प्रार्थी को दैनिक वेतन भोगी के रूप में ड्राइवर के पद पर 150 रुपये प्रतिदिन भुगतान किये जाने के आधार पर नियोजित किया गया था और एक माह में लगभग 4500 रु. वेतन का भुगतान किया जाता था जो जरिये वाउचर किया जाता था। अप्रार्थी संस्था के यहां ड्राइवर का पद स्वीकृत एवं रिक्त होने के बावजूद प्रार्थी को ड्राइवर के पद पर स्थाई नहीं किया गया बल्कि किसी अन्य व्यक्ति को ड्राइवर के

पद पर नियुक्ति प्रदान कर औद्योगिक विवाद अधिनियम की धारा 25 जी व एच के प्रावधानों का उल्लंघन किया गया। प्रार्थी को सेवा से हटाये जाने से पूर्व धारा 25 एफ की पालना नहीं की गयी न तो एक माह का नोटिस दिया न ही नोटिस के बदले एक माह के बदले वेतन का भुगतान किया गया। अब तक दी गयी सेवा अवधि के अनुसार क्षतिपूर्ति राशि का भी भुगतान नहीं किया गया। अतः निवेदन किया कि प्रार्थी सेवा पृथक्करण आदेश दिनांक 11-1-05 अवैध घोषित किया जाकर प्रार्थी की सेवा बहाली एवं सेवा बर्खास्तगी की दिनांक से प्रकरण के निर्णय तक वेतन मय समस्त परिलाभ एवं सेवा में नियमित किये जाने के आदेश पारित किया जावे।

4. अप्रार्थी की ओर से जवाब में यह कहा है कि अप्रार्थी द्वारा किसी भी कैलेंडर वर्ष में 240 दिन अथवा उससे अधिक कार्य नहीं किया गया। दिनांक 11-1-05 को कथित रूप से सेवा से हटाने का आरोप भी गलत है। प्रार्थी श्रमिक की परिभाषा में नहीं आता है। प्रार्थी को कभी नियुक्ति पत्र जैसा कोई दस्तावेज अप्रार्थी संस्थान द्वारा जारी नहीं किया गया। नियमित ड्राईवर के अवकाश पर जाने अथवा पद रिक्त होने के अंतराल के लिए यदि प्रार्थी को कार्य दिया गया तो उससे प्रार्थी के हक में कोई अधिकार उत्पन्न नहीं होता है। प्रार्थी को रोजगार कार्यालय से नाम प्राप्त होने पर नियुक्ति के लिए नहीं बल्कि टेस्ट व साक्षात्कार के लिए बुलाया गया था। नौ सदस्यीय कमेटी द्वारा सभी अभ्यर्थियों का टेस्ट व साक्षात्कार लिया गया जिसमें प्रार्थी भी सम्मिलित हुआ व असफल रहा तथा वरीयता क्रम में प्रथम स्थान प्राप्त श्री गुलाबचंद को नियमित रूप से नियुक्ति पत्र जारी किया गया। प्रार्थी द्वारा सिविल न्यायालय में जरिये वाद व अस्थायी निषेधाज्ञा चुनौती दी गयी थी। न्यायालय द्वारा प्रार्थी का अस्थायी निषेधाज्ञा का आवेदन पत्र निरस्त का दिया गया। उक्त प्रकरण में प्रार्थी द्वारा प्रस्तुत अपील भी अपर जिला न्यायाधीश सं.1 द्वारा निरस्त कर दी गयी है। इस प्रकार एक ही तथ्य के संबंध में दो न्यायालयों से प्रार्थी अनुतोष नहीं मांग सकता है। अप्रार्थी संस्थान द्वारा जब भी प्रार्थी की सेवायें ली गयी, प्रार्थी को आदेश द्वारा यह स्पष्ट रूप से उल्लेखित किया गया कि उक्त नियुक्ति पूर्णतया अस्थायी है जो नियमित ड्राईवर के आने पर स्वतः ही समाप्त होती रही। अतः क्लेम निरस्त करने का निवेदन किया गया।

5. साक्ष्य में प्रार्थी की ओर से ए.डब.1 प्रार्थी पप्पू गहलोत तथा अप्रार्थी की ओर से गवाह एन ए डब.1 ईश्वरलाल के बयान कराये गये हैं। प्रार्थी की ओर से दस्तावेजी साक्ष्य में प्रदर्श ए-1 से 225 तक पेश किये गये हैं तथा अप्रार्थी की ओर से प्रदर्श एम.1 से एम.13 तक दस्तावेज प्रस्तुत किये गये हैं।

6. मैंने उभयपक्ष की बहस सुनी, पत्रावली का अवलोकन किया। अप्रार्थी की ओर से निम्नलिखित न्यायिक दृष्टांत प्रस्तुत किये गये जिनका भी मैंने ससम्मान अवलोकन किया:-

1. 2009 डी एन जे (एस सी) 294

2. 2007 लैब आई सी 764

3. 2008 लैब आई सी 4210

7. प्रार्थी की ओर से बहस में यह कहा गया है कि वह अप्रार्थी संस्थान में ड्राईवर के पद पर दैनिक वेतन भोगी श्रमिक के रूप में कार्यरत था तथा उसने 26-7-02 से 11-1-05 तक ईमानदारी व

निष्ठा से अपनी सेवायें दी तथा सेवा से हटाये जाने के पूर्व एक वर्ष की अवधि में 240 दिन से अधिक अवधि तक सेवारत रहा है। अतः उसके द्वारा एक कैलेंडर वर्ष में 240 दिन से अधिक अवधि तक अप्रार्थी संस्थान में कार्य किया गया है परंतु अप्रार्थी संस्थान द्वारा उसे दिनांक 11-1-2005 को सेवा से हटा दिया गया है सेवा से हटाने से पूर्व धारा 25 एफ की पालना नहीं की गयी तथा उसके स्थान पर किसी अन्य व्यक्ति को ड्राईवर के पद पर नियुक्त कर दिया गया। इस प्रकार धारा 25 जी व एच के प्रावधानों का भी उल्लंघन किया गया है।

8. अप्रार्थी की ओर से बहस में यह कहा गया है कि प्रार्थी ने किसी भी कैलेंडर वर्ष में 240 दिन अथवा उससे अधिक कार्य नहीं किया। प्रार्थी को नियमित ड्राईवर के अवकाश पर जाने अथवा पद रिक्त होने के अंतराल में आवश्यकता होने पर कार्य दिया गया था, जिसे नियमित नियुक्ति नहीं कहा जा सकता है। नियमित नियुक्ति के लिए रोजगार कार्यालय से नाम मंगवाये गये थे तथा नौ सदस्यीय कमेटी द्वारा सभी अभ्यर्थियों का टेस्ट व साक्षात्कार लिया गया था। इसमें प्रार्थी भी सम्मिलित हुआ था व असफल रहा। वरीयता क्रम में प्रथम स्थान प्राप्त अभ्यर्थी गुलाबचंद को नियमित रूप से नियुक्ति पत्र जारी किया गया तथा श्री गुलाबचंद ने ड्राईवर के पद पर कार्यभार ग्रहण कर लिया। प्रार्थी ने सिविल न्यायालय में भी वाद व अस्थायी निषेधाज्ञा के जरिये इसे चुनौती दी थी परंतु अधीनस्थ न्यायालय ने प्रार्थी के अस्थायी निषेधाज्ञा के प्रार्थना-पत्र को निरस्त कर दिया। प्रार्थी द्वारा प्रस्तुत की गयी अपील भी अपर जिला न्यायाधीश सं.1, अजमेर के आदेश दिनांक 5-12-05 द्वारा खारिज की गयी है। इस प्रकार प्रार्थी को सिविल न्यायालय से कोई अनुतोष प्राप्त नहीं हुआ है। ड्राईवर के रिक्त पद पर नियुक्ति नियमों के अंतर्गत निर्धारित प्रक्रिया अपनाकर प्रथम वरीयता प्राप्त अभ्यर्थी को दी गयी है। अतः प्रार्थी का कोई क्लेम नहीं बनता है।

9. साक्ष्य में गवाह ए. डब.1 प्रार्थी पप्पू गहलोत ने मुख्य परीक्षा में क्लेम के तथ्यों को दोहराते हुए प्रदर्श ए-1 से ए-225 प्रदर्शित कराये हैं। जिरह में इस गवाह ने कहा कि यह सही है कि रीजनल इंस्टीट्यूट में नियुक्ति के लिए सर्विस रूल्स बने हुए हैं। यह सही है कि अप्रार्थी संस्थान में वाहन चालक की नियुक्ति के लिए पूरी भर्ती प्रक्रिया बनी हुई है। मुझे दिनांक 26-7-02 को पहली बार नियुक्त किया गया था। मुझे भर्ती के समय यह प्रक्रिया नहीं अपनायी थी। मैंने पार्श्वनाथ ट्रेवलस में चार साल काम किया था। मैंने नियमित करने के लिए इसी कोर्ट में नगर परिषद के विरुद्ध भरी वाद पेश किया है उसमें मेरे बयान प्रदर्श एम-13 है, जिसके प्रत्येक पेज पर मेरे दस्ताखत हैं। मैं कार्ड का नवीनीकरण समय-समय पर करवाता रहता था। यह सही है कि कार्ड रिन्यू करवाते हैं जब कार्ड ले जाने वाला उस समय बेरोजगार हो। यह सही है कि 2001-04 में जब मैंने कार्ड रिन्यू कराया तब मैं बेरोजगार था। इस ताह 2004-07 तक मैंने कार्ड रिन्यू करवाया तब तब मैं बेरोजगार था। यह कहना गलत है कि मुझे स्थाई चालक के छुट्टी जाने पर अस्थायी रूप से नौकरी पर रखा था बल्कि मुझे तो नियमित कार्य पर रखा था। यह सही है कि रीजनल इंस्टीट्यूट में रेग्यूलर चालक की पोस्ट है। यहां पर नियमित चालक

का पद था और वह उस समय कार्यरत था। मुझे वर्ष 2000 की परीक्षा में चुन लिया गया था और प्रथम वरीयता उस परीक्षा में मिली थी उसी आधार पर नियुक्ति के लिए बुलाया था। मुझे वर्ष 2000 में टैस्ट में चुना था। नियुक्ति-पत्र वर्ष 2002 में दिया। दिनांक 26-7-02 से 11-1-05 तक अप्रार्थी के यहां नियमित कार्यरत रहा जिसका रिकॉर्ड मैंने न्यायालय में पेश किया है। यह भर्ती वर्ष 2000 के इंटरव्यू के आधार पर थी। मुझे 2000 में सैलेक्ट कर 2002 में पत्र दिया था। यह सही है कि 4-1-05 को चालक के पद के लिए इंटरव्यू हुए थे। मुझे वहां बुलाया था। यह सही है कि जितने लोगों को बुलाया था उन सभी को रोजगार कार्यालय के माध्यम से ही बुलाया था। यह सही है कि मेरे सहित बीस व्यक्ति उस इंटरव्यू में शामिल हुए थे कमेटी नौ मेंबर्स की थी उसमें इंटरव्यू व टैस्ट लिया था। उस परीक्षा में मुझे प्रथम वरीयता मिली थी। यह कहना गलत है कि गुलाबचंद को प्रथम वरीयता मिली हो। पेमेंट के बारे में मेरे कोई विवाद नहीं था। यह कहना गलत है कि मुझे नौ मेंबर की कमेटी में सैलेक्ट नहीं किया हो। गुलाबचंद को निजी स्वार्थ से नौकरी पर रखा था। यह सही है कि मैंने इस केस के पूर्व म्युनिसिपल्टी के खिलाफ भी केस पेश किया था जो खारिज हुआ था। उस केस में मेरे बयान हुए थे। मैंने सही लिखाया था। यह गलत है कि मैंने किसी भी कैलेंडर वर्ष में 240 दिन या उससे अधिक कार्य नहीं किया हो।

10. अप्रार्थी की साक्ष्य में गवाह एन ए डब्ल्यू. ईश्वरलाल ने मुख्य परीक्षा में यह कहा है कि प्रार्थी द्वारा 11-1-05 से पूर्व एक कैलेंडर वर्ष में 240 दिन या इससे अधिक ड्राईवर के पद पर कार्य नहीं किया गया। नियमित ड्राईवर के अवकाश पर जाने पर विकल्प के रूप में आवश्यकतानुसार सीमित अवधि के लिए प्रार्थी को कार्य पर बुलाया गया तथा भुगतान किया गया। प्रार्थी ने वर्ष 2002 और 2003 के मध्य केवल 18 दिन काम किया तथा 2004 से 2005 में 89 दिन की अवधि में केवल 65 दिन कार्य किया जो नियमित ड्राईवर उपलब्ध नहीं होने अथवा अवकाश पर जाने के कारण वैकल्पिक व्यवस्था के रूप में बुलाया गया। वर्ष 2004 में ड्राईवर का पद रिक्त होने के कारण रोजगार कार्यालय के पद हेतु साक्षात्कार के लिए नाम मांगे गये। प्रार्थी का नाम भी रोजगार कार्यालय के माध्यम से प्राप्त हुआ। नौ सदस्यों की एक कमेटी का गठन कर टैस्ट व साक्षात्कार लिये गये। कमेटी ने इसमें सदस्य एवं तकनीकी विशेषज्ञ भी थे। चयनित ड्राईवर के पद हेतु सूची बनायी तथा श्री गुलाबचंद को चयनित किया गया जिसे नियुक्ति पत्र जारी किया गया और नियमानुसार उक्त पद भरा गया। अक्टूबर 2004 से जनवरी 2005 के मध्य प्रार्थी ने जितने दिन कार्य किया उसकी उपस्थिति पंजिका प्रति प्रदर्श एम-4 से एम-6 है। कमेटी की रिपोर्ट प्रदर्श एम-7 है। नियुक्ति पत्र प्रदर्श एम-8 व ड्राईवर गुलाबचंद द्वारा दी गयी उपस्थिति पत्र की प्रति प्रदर्श एम-9 है। प्रार्थी को निश्चित अवधि के लिए कार्य पर रखा गया था। उसका कोई भी हक नियमित पद के लिए कभी नहीं रहा।

11. जिरह में गवाह ने कहा कि यह सही है कि प्रदर्श ए-21 हमारे विभाग का जारी पत्र है जिस पर मेरे दस्तखत हैं। प्रदर्श ए-21 से ए-191 में जो अवधि लिखी है उस अवधि में प्रार्थी ने कार्य किया है। रिकॉर्ड के आधार पर हो सकता है कि यह अवधि 2000 दिन से

अधिक हो। प्रदर्श ए-200 हमारे विभाग का जारी है जिस पर मेरे सुपीरियर के हस्ताक्षर हैं। प्रदर्श ए-207 में जो योग्यता वर्णित है, वह प्रार्थी रखता है तो उसे देखने का काम कमेटी का होता है। प्रार्थी ने 1-1-05 से पूर्व किसी भी कैलेंडर वर्ष में 240 दिन से अधिक काम नहीं किया। इस संबंध में रिकॉर्ड पेश है। यह कहना गलत है कि हमने गुलाबचंद को रखने के लिए उसका नाम निकाल दिया हो। प्रार्थी लीव वेकेंसी में कार्यरत था। इस वजह से नोटिस नहीं दिया। यह कहना गलत है कि प्रार्थी को लीव वेकेंसी के बजाय संस्थायी पर रखा हो।

12. प्रार्थी ने अपने स्टेटमेंट ऑफ क्लेम में स्वयं को दैनिक वेतन भोगी ड्राईवर होना बताया है जबकि अप्रार्थी ने कहा कि प्रार्थी की सेवायें जब-जब आवश्यकता होती थी, नियमित ड्राईवर के अवकाश पर होने या पद रिक्त होने की अवधि के बीच में उससे काम लिया जाता था और उसी अवधि का भुगतान किया जाता था। प्रार्थी ने साक्ष्य में जिरह के दौरान यह कहा है कि मुझे नियमित कार्य पर रखा गया था परंतु आगे कहा है कि यह सही है कि रोजनल इंस्टीट्यूट में रेग्यूलर चालक की पोस्ट है। वहां पर नियमित चालक का पद था और वह उस समय कार्यरत था। गवाह ने यह भी कहा कि वर्ष 2000 में उसे परीक्षा में चुन लिया गया और प्रथम वरीयता परीक्षा में मिली थी, उसी आधार पर मुझे नियुक्ति के लिए बुलाया था तथा मैं 26-7-02 से 11-1-05 तक अप्रार्थी के यहां नियमित रूप से कार्यरत रहा जिसका रिकॉर्ड मैंने पेश किया है। यह भर्ती 2000 के इंटरव्यू के आधार पर थी। इस प्रकार प्रार्थी ने अपनी नियुक्ति वर्ष 2000 में हुई परीक्षा में प्रथम वरीयता प्राप्त होने के आधार पर होना कहा है परंतु इस संबंध में कोई दस्तावेज प्रार्थी की ओर से प्रस्तुत नहीं किये गये हैं, जिससे यह साबित होता हो कि प्रार्थी की नियुक्ति नियमित पद पर वर्ष 2000 में हुई परीक्षा के आधार पर अप्रार्थी संस्थान में की गयी हो। जिरह के प्रारंभ में स्वयं प्रार्थी ने यह कहा है कि यह सही है कि अप्रार्थी संस्थान में वाहन चालक की नियुक्ति के लिए पूरी भर्ती प्रक्रिया बनी हुई है। मुझे दिनांक 26-7-02 को पहली बार नियुक्त किया था। मुझे भर्ती के समय यह प्रक्रिया नहीं अपनायी थी। इस प्रकार वर्ष 2002 में प्रार्थी की नियुक्ति भर्ती प्रक्रिया अपनाकर हुई हो यह साबित नहीं है। स्वयं प्रार्थी ने अपने क्लेम में अपने आपको दैनिक वेतन भोगी ड्राईवर के रूप में कार्यरत होना कहा है।

13. अप्रार्थी का यह कथन है कि प्रार्थी को नियमित वाहन चालक के अवकाश पर होने अथवा अन्यथा उपलब्ध नहीं होने के समय कार्य पर बुलाया जाता था और जिस अवधि तक वह कार्य करता था उसका भुगतान कर दिया जाता था। अतः वह लीव वेकेंसी के आधार पर दैनिक वेतन भोगी के आधार पर कार्य करता था एवं उसका कार्य नियमित रूप से नहीं लिया जाता था बल्कि नियमित वाहन चालक के नहीं होने पर ही आवश्यकतानुसार लिया जाता था। नियमित वाहन चालक को भर्ती की प्रक्रिया नियमानुसार अपनायी गयी थी। वर्ष 2004 के अंत में ड्राईवर का पद रिक्त होने पर इस पद पर भर्ती होने हेतु टैस्ट व साक्षात्कार के लिए नाम मांगे गये थे तथा प्रार्थी का नाम भी रोजगार कार्यालय के माध्यम से प्राप्त हुआ था।

नौ सदस्यों की कमेटी का गठन होकर दिनांक 4-1-05 को उक्त टेस्ट व साक्षात्कार कमेटी द्वारा लिये गये थे। चयनित ड्राईवर के पद हेतु सूची बनायी गयी थी जिसमें प्रथम स्थान पर श्री गुलाबचंद था, जिसका चयन किया गया। उक्त सूची कमेटी द्वारा बनायी गयी थी उक्तानुसार गुलाबचंद का चयनकर उसकी नियुक्ति रिक्त पद पर की गयी, जो निर्धारित प्रक्रिया अपनाकर की गयी। समिति के कार्यवाही विवरण की प्रति प्रदर्श एम-7 प्रस्तुत हुई। प्रार्थी ने जिरह में यह कथन किया है कि मेरे सहित बीस व्यक्ति इंटरव्यू में शामिल हुए थे। कमेटी नौ मैबर्स की थी जिसने इंटरव्यू व टैस्ट लिया था। उस परीक्षा में मुझे प्रथम वरीयता मिली थी। यह कहना गलत है कि गुलाबचंद को प्रथम वरीयता मिली हो। इस प्रकार प्रार्थी ने साक्ष्य में यह स्वीकार किया है कि दिनांक 4-1-05 को उसके सहित बीस व्यक्तियों के इंटरव्यू नौ सदस्यों की कमेटी ने लिये थे तथा इंटरव्यू व टैस्ट कमेटी द्वारा लिया गया था। अतः निर्धारित प्रक्रिया अप्रार्थी द्वारा अपनाये जाने की बात स्वयं प्रार्थी ने स्वीकार की है, परंतु उनका यह कहना है कि उस परीक्षा में उसे प्रथम वरीयता मिली थी। परंतु प्रार्थी के इस कथन की पुष्टि दस्तावेजी साक्ष्य से नहीं होती है। दस्तावेजी साक्ष्य के अनुसार चयन समिति ने गुलाबचंद पुत्र चिरंजीलाल को चयनित किया था।

14. अतः उपरोक्त साक्ष्य के विश्लेषण से यह प्रकट होता है कि प्रार्थी को दैनिक वेतन भोगी श्रमिक के बतौर ड्राईवर के पद पर कार्य करने हेतु अप्रार्थी संस्था द्वारा बुलाया जाता था। प्रार्थी द्वारा नियमित चालक के अनुपस्थित होने अथवा पद रिक्त होने की अवधि के दौरान कार्य किया जाता था। प्रार्थी को निर्धारित चयन प्रक्रिया अपनाये जाने के पश्चात् नियुक्ति नहीं दी गयी। वर्ष 2005 में अप्रार्थी संस्थान द्वारा नियमानुसार रोजगार कार्यालय से सूची मंगायी जाकर ड्राईवर के चयन हेतु टैस्ट व साक्षात्कार की कार्यवाही की गयी जिसमें स्वयं प्रार्थी द्वारा भी भाग लिया गया परंतु वह असफल रहा तथा चयनित सूची में गुलाबचंद पुत्र चिरंजीलाल को प्रथम वरीयता के आधार पर नियुक्ति प्रदान की गयी। अतः प्रार्थी का यह कथन कि उसे नियमित चालक के पद पर नियुक्त किया गया था, साक्ष्य से साबित नहीं है तथा यह भली-भांति साबित है कि प्रार्थी को नियमानुसार चयन प्रक्रिया में शामिल होने का पूर्ण अवसर दिया गया, परंतु वह असफल रहा, अतः उसे नियमित चालक के पद पर नियुक्ति नहीं दी गयी।

15. अब प्रश्न यह है कि क्या प्रार्थी द्वारा किसी भी कैलेंडर वर्ष में 240 दिन से अधिक कार्य अप्रार्थी संस्थान में किया गया। अप्रार्थी की ओर से यह कहा गया है कि प्रार्थी ने किसी भी कैलेंडर वर्ष में 240 दिन या इससे अधिक कार्य नहीं किया जबकि प्रार्थी ने कहा है कि उसने 240 दिन से अधिक कार्य किया है। गवाह एन ए डबल्यू ने मुख्य परीक्षा में यह कहा है कि वर्ष 2002 व 2003 के बीच प्रार्थी ने 18 दिन तथा 2004-05 में 65 दिन कार्य किया। जिरह में इस गवाह द्वारा यह स्वीकार किया गया है कि प्रदर्श ए-21 से ए-199 में जो अवधि लिखी है उस अवधि में प्रार्थी ने कार्य किया है प्रदर्श ए-21 से ए-199 रिक्वीजिशन फॉर्म है। इस पर प्रार्थी के भी हस्ताक्षर होना बताया गया है। उक्त रिक्वीजिशन फॉर्म द्वारा प्रार्थी को कार्य पर उक्त फॉर्म में अंकित दिनाकों को रखा गया था। उक्त प्रपत्र दिनांक 1-3-04 से 16-9-04 तक की अवधि के है। इस प्रकार 1-3-04 से

16-9-04 तक इन दस्तावेजों के अनुसार प्रार्थी ने अप्रार्थी संस्थान में कुल 179 दिन कार्य किया, यह प्रकट होता है तथा इस तथ्य की स्वीकृति जिरह में अप्रार्थी के गवाह ने भी की है। उक्त अवधि के अलावा अप्रार्थी की तरफ से दस्तावेज प्रस्तुत हुए हैं उनके अनुसार प्रदर्श एम-4, 5 व 6 महत्वपूर्ण हैं। प्रदर्श एम-4 के अनुसार प्रार्थी को दिसंबर 2004 के 25 दिन तथा जनवरी 2005 के पांच दिन इस प्रकार कुल तीस दिन का भुगतान किया गया है। प्रदर्श एम-5 के अनुसार प्रार्थी को अक्टूबर 2004 माह के 14 दिन का भुगतान किया गया है तथा प्रदर्श एम-6 के अनुसार प्रार्थी को नवंबर 2004 माह के 21 दिन का भुगतान किया गया है। ये दस्तावेज स्वयं अप्रार्थी की ओर से प्रस्तुत किये गये हैं, जिनके अनुसार माह अक्टूबर 2004 से जनवरी 2005 तक की अवधि में प्रार्थी द्वारा कुल 65 दिन कार्य किया जाना प्रमाणित होता है। इस प्रकार जनवरी 2005 से पूर्व एक कैलेंडर वर्ष में प्रार्थी द्वारा कुल 244 दिन कार्य किया जाना उक्त दस्तावेजी साक्ष्य से साबित होता है।

16. जहां तक इस बात का प्रश्न है कि क्या अप्रार्थी द्वारा प्रार्थी को सेवामुक्ति किये जाने से पूर्व धारा 25 एफ की पालना की गयी, इस संबंध में स्वयं अप्रार्थी ने यह कहा है कि प्रार्थी को सेवा से हटाये जाने से पहले धारा 25 एफ के अंतर्गत न तो नोटिस दिया गया और न ही एक माह के वेतन का भुगतान दिया गया। अतः अभिकथनों व साक्ष्य से यह स्पष्ट होता है कि प्रार्थी को सेवा से हटाने से पूर्व धारा 25 एफ के प्रावधानों की पालना नहीं की गयी जबकि प्रार्थी द्वारा एक कैलेंडर वर्ष में 240 दिन से अधिक की अवधि तक अप्रार्थी संस्थान में दैनिक वेतन भोगी कर्मचारी के रूप में कार्य किया गया अतः धारा 25 एफ की पालना नहीं होने के कारण दिनांक 11-1-05 से प्रार्थी श्रमिक को सेवामुक्ति किये जाने का आदेश वैध एवं उचित नहीं है।

17. जहां तक इस बात का प्रश्न है कि प्रार्थी किस अनुतोष को प्राप्त करने का अधिकारी है, इस संबंध में साक्ष्य से जो निष्कर्ष आया है उसके अनुसार प्रार्थी अप्रार्थी संस्थान में दैनिक वेतन भोगी कर्मचारी के रूप में कार्य करता था उसकी सेवायें नियमित चालक के नहीं होने, अवकाश पर होने आदि के समय अप्रार्थी संस्थान द्वारा ली जाती थी। प्रार्थी की नियुक्ति निर्धारित चयन प्रक्रिया से नियमानुसार नियमित पद पर नहीं हुई थी तथा प्रार्थी ने नियमानुसार आयोजित चयन प्रक्रिया में भाग भी लिया था। अतः इन तथ्यों को देखते हुए प्रार्थी दैनिक वेतन भोगी कर्मचारी के रूप में कार्यरत था, उसकी सेवायें नियमित चालक के नहीं होने पर ही अप्रार्थी संस्थान द्वारा ली जाती थी इन समस्त तथ्यों व परिस्थितियों में प्रार्थी सेवा में बहाली का अनुतोष प्राप्त करने का अधिकारी नहीं है परंतु धारा 25 एफ की पालना अप्रार्थी संस्थान द्वारा नहीं की गयी है। अतः प्रार्थी को एक मुश्त पच्चीस हजार रुपये क्षतिपूर्ति के बतौर दिलाया जाना न्यायोचित होगा। अतः अवाई निम्न प्रकार से पारित किया जाता है।

आदेश-अवाई

फलतः केन्द्र सरकार द्वारा प्रेषित विवाद का उत्तर इस प्रकार से दिया जाता है कि प्रिंसिपल, रीजनल इंस्टीट्यूट ऑफ एज्युकेशन, अजमेर द्वारा श्रमिक श्री पप्पू गहलोत पुत्र श्री हेमा जी माली को

दिनांक 11-1-2005 से (धारा 25 एफ औद्योगिक विवाद अधिनियम के प्रावधानों की पालना किये बगैर) सेवामुक्त किये जाने का आदेश अवैध एवं अनुचित है। प्रार्थी अप्रार्थी से क्षतिपूर्ति के रूप में एकमुश्त 25,000 रुपये (अक्षर पच्चीस हजार रुपये मात्र) प्राप्त करने का अधिकारी होगा। अप्रार्थी उक्त रकम प्रार्थी को अवार्ड के प्रकाशन के एक माह में अदा करे।

मनोज कुमार व्यास, न्यायाधीश

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2910.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 133/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-12025/01/2011-आई आर(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2910.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 133/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, received by the Central Government on 19-09-2011.

[No. L-12025/01/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AT HYDERABAD

Present: SHRI VED PRAKASH GAUR, Presiding Officer

Dated the 7th day of April, 2011

INDUSTRIAL DISPUTE L.C. No. 133/2006

Between:

Sri Budharaju Sowraswamy,
S/o Bala Swamy,
R/o Kanchekacherla
Gottumukkala Village,
Krishna District.

...Petitioner

AND

The Chief General Manager (Personnel),
State Bank of India, LHO,
Bank Street,
Hyderabad. ...Respondent

APPEARANCES:

For the Petitioner : M/s. S. Prasada Rao, C. Bala
Subrahmanyam, and K. Bharathi, Advocates

For the Respondent : Smt. B. Lalitha Kumari, Advocate

AWARD

This petition under Sec. 2 A(2) of the I.D. Act, 1947 has been filed by Sri Budharaju Sowraswamy, Ex. Messenger of State Bank of India, challenging the order of termination dated 31-3-1997 and for his reinstatement in service with consequential benefits and back wages.

2. The Petitioner has stated that he is a member of scheduled caste and he joined in the services of the Respondent as Messenger on 2-7-1988 in State Bank of India, Kanchekacherla branch, Krishna District and he worked up to 31-3-1997, thereafter he was disengaged and was ordered to stop the work.

3. Petitioner made several representations and also filed Writ Petition along with 200 others employees before the Hon'ble High Court of A.P., which was registered as WP. 4194/97 and other petitions Nos. 9206/97, 5087/97 etc., which were disposed off by a common order by Hon'ble Justice Somasekhara of Hon'ble High Court against which management has filed Writ Appeal No. 86/98 which was decided and ordered that Petitioner should approach Labour Court/Industrial Tribunal. Against the order of Writ Appeal SLP was filed by the Petitioner and other employees, which was dismissed by the Hon'ble Supreme Court confirming the order of the Writ Appeal.

4. There was agreement between the employees union and the management in which it was agreed that those employees who have completed minimum of 30 days in any calendar month or 75 days in aggregate in 36 calendar months will be called for interview by virtue of settlement dated 17-8-1984, thereafter another settlement was also entered into between the employees and management on 17-7-1989, subsequent agreement dated 16-10-1988, 27-10-1988, followed by agreement dated 26-4-1994 was also entered into between parties, in all the settlements it was agreed that the employees who have put in a certain number of days will be considered for absorption and a panel will be prepared of those employees. The Petitioner's name find place in the list prepared by management but Petitioner was not absorbed, not only that Justice Sri Somasekhara of Hon'ble High Court of A.P., by order dated 1-1-1998 directed Respondent bank to absorb all the Petitioners which was not complied by the management. The management challenged that order which was quashed by Appellate Authority and order of

the Appellate Authority amended by Hon'ble Supreme Court, hence, the Petitioner has filed this present petition.

5. Counter has been filed by the Respondent management. Management has also admitted that several agreements as mentioned by the Petitioner have been entered into between the management and the union and the employees were categorized into three categories:-

(A) Those, who have completed 240 days of temporary service in 12 calendar months or less after 1-7-1975

(B) Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975

(C) Those, who have completed minimum of 30 days aggregate temporary service in any calendar year after 1-7-1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

6. As per terms of the agreement dated February, 1997 the last date of the panel was to expire on 31-3-1997. The Petitioner was not found suitable in the order of seniority, he was not considered for absorption. Petitioner was engaged intermittently when the regular employees were not available for sweeping and cleaning of the office he was not regularly appointed employee nor he was sponsored by the Employment Exchange as such, no legal right is vested in the Petitioner for being absorbed in the bank's services. Petition is devoid of merit and deserves to be dismissed.

7. Parties were directed to file their evidence. Petitioner Sri Budharaju Sowraswamy has appeared, examined in chief and presented himself for cross-examination. He has filed xerox copies documents viz., interview call letter dated 3-8-1989 Ex.W1, Certificate of temporary service allegedly issued by State Bank of India for 31 days Ex.W2, Certificate of temporary service allegedly issued by State Bank of India for 275 days Ex.W3, community, nativity and date of birth certificate Ex.W4, transfer certificate Ex.W5. Management has filed affidavit of P. Madhu Mohan Patro, Chief Manager(HR), State Bank of India, Vijayawada who has marked 12 documents Ex. M1 to M12. He appeared for cross-examination and has been cross examined at length.

8. I have heard counsels for both the parties at length and I have gone through the evidence on record. It has been argued by the Learned Counsel for the workman that workman was engaged in the year 1988 and he has worked up to March, 1997. In proof of his claim he has filed particulars of temporary service Ex.W2 and W3 to show that Sri Budharaju Sowraswamy worked for 31 days in the year 1988, like wise he worked in 1993 for 6 days, in 1994 for 45 days, in 1995 for 5 days, in 1996 for 111 days and in

1997 for 75 days in total 275 days. On the basis of these documents the argument of Learned Counsel for the Petitioner is that Petitioner has worked for 275 days altogether under the management of Respondent, thus, he is entitled for absorption in the bank's service as per the agreement entered into between the bank management and the employees union. The Learned Counsel for the Petitioner further argued that the Petitioner has put in total number of 275 days though intermittently but under the terms and conditions of the agreement entered into between the employees union and the management. Petitioner's case is covered under category 'C' of categorization of the employees as such, the Petitioner has become entitled for absorption.

9. Against the above argument of Learned Counsel for the Petitioner, Learned Counsel for the Respondent has argued that even if the Petitioner has put in 275 days service in total and he comes within the category 'C' employees, it is not vested right of the Petitioner to be absorbed in the services of the bank unless other formalities and rules of the absorption has been fulfilled by the Petitioner. The Petitioner was called for interview as per his own document but whether he was empanelled after the interview or not has not been proved by him. Moreover, there are other categories 'A & B' of the employees, who put in 240 days of temporary service in 12 calendar months and who put in 270 days aggregate service in 36 calendar months, their case was to be considered on priority basis in comparison to those placed in category 'C' of the employees. It was the duty of the Petitioner to prove that anybody or any person junior to him or who has put in less number of working days in comparison to the Petitioner was absorbed by the bank. Secondly, the Petitioner has not been able to prove that what was the outcome of the result of the interview whether he was empanelled after the interview or not has not been proved by the Petitioner as such, the bank has not committed any illegality in disengaging the Petitioner who has worked intermittently when the work was available with the bank. Therefore, the action of the management is neither illegal nor arbitrary nor violative of the principles of natural justice and Petitioner is not entitled for any relief.

10. In light of the above argument of the Learned Counsel for the parties this Tribunal has to consider following points for adjudication:—

(I) Whether the action of the management in disengaging the Petitioner from service is illegal, arbitrary and violative of principles of natural justice?

(II) To what relief if any, the Petitioner is entitled for?

11. Point No. (I): It is undisputed fact that the Petitioner has worked in the bank when the work was available with the management. The Petitioner in his cross-

examination has admitted that he worked for a period of 275 days intermittently. The Petitioner alleged to have filed xerox copy of the service certificate or number of working days he put in as temporary messenger with the bank management. These certificates have not been proved by the Petitioner workman. Even if it is presumed that Petitioner has worked for 275 days that itself does not confer any right on Petitioner for absorption in the bank's services. Learned Counsel for the Petitioner has relied upon case law of Hon'ble High Court of Karnataka reported in 2005 (I) LLJ page 126 in the matter of State Bank of India, Bangalore Vs. T. N. Jaya Ram wherein Hon'ble Karnataka High Court has held that, "the claim of those employees who has not completed 30 days in one calendar year are not entitled for regularization." However, the Petitioner workman has not been able to place before this Tribunal any such rule, which authorizes for the regularization of those employees who has put in more than 200 days of the service in 36 calendar months. There is agreement between the parties under which employees were given option to apply for regularization and it was agreed between the union and the management that panel will be prepared on the basis of the interview and such panel will be remained enforced for a particular period and existing vacancies will be filled out of the candidates listed in the panel. Petitioner of this case has not placed any paper to prove that he was selected by the management or he was empanelled for absorption in the service. Unless, the Petitioner was empanelled for absorption he cannot claim right of absorption. The case law cited by Learned Counsel for the Petitioner reported in 2005 (I) LLJ page 126 is not applicable in the present case. In the same way the case law reported in 2003 (I) LLJ page 219 is also not applicable in the present case. The bank's service is a public utility service and there is procedure for recruitment to the banking services. Petitioner has not been able to prove that he was selected by the Empanelment Committee for absorption in the bank's service. He was not sponsored by the Employment Exchange as well. As such, in view of the agreement of 1997 in which the empanelled candidates were to be absorbed by end of the March, 1997, since name of the Petitioner does not find place in the empanelled list the disengagement of the Petitioner is neither bad in the eye of law nor against the terms of the agreement entered into by the bank employees and the bank management. Since Petitioner was not selected by the Empanelment Committee he was not sponsored by the Employment Exchange he was engaged by the Manager when the work was available in the branch he has no right or authority for absorption as he was not appointed according to the recruitment rules of the public utility services as held by Hon'ble Supreme Court of India in Umadevi Vs. State of Karnataka. Point No.1 is decided accordingly.

12. Point No. (II): Petitioner has not been able to prove that his disengagement from service was illegal,

arbitrary or against principles of natural justice. Petitioner is not entitled for any relief claimed by him. Point No. (II) is decided accordingly.

13. In view of the above discussion, this Tribunal is of the opinion that petition deserves to be dismissed and it is dismissed, hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 7th day of April, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the : WW1: Sri Budharaju
Petitioner Sowraswamy

Witnesses examined for the : MW1: Sri P. Madhu Mohan
Respondent Patro

Documents marked for the Petitioner

- Ex.W1: Copy of call letter for interview
- Ex.W2: Copy of certificate of temporary service
- Ex.W3: Copy of certificate of temporary service
- Ex.W4: Copy of community, nativity and date of birth certificate
- Ex.W5: Copy of transfer certificate

Documents marked for the Respondent

- Ex.M1: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 17-11-1987
- Ex.M2: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 16-7-1988
- Ex.M3: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 27-10-1988
- Ex.M4: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 9-1-1991
- Ex.M5: Copy of minutes of conciliation proceedings held before RLC(C), Hyderabad dt. 9-6-95
- Ex.M6: Copy of settlement signed between All India SBI Staff Federation and SBI 30-7-1996
- Ex.M7: Copy of memorandum of understanding dt. 27-2-1997
- Ex.M8: Copy of statements giving the particulars of 1989 Messsengerial panel
- Ex.M9: Copy of statements giving the particulars of 1989 Non-Messsengerial panel
- Ex.M10: Copy of statement of 1992 panel
- Ex.M11: Copy of judgement of Hon'ble High Court in WA No. 86/98 dt. 1-5-1998
- Ex.M12: Copy of judgement in SLP No.11866-11888 of 1998 dt. 10-8-98.

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2911.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 228/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-12025/01/2011-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2911.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 228/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, received by the Central Government on 19-9-2011.

[No. L-12025/01/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : - Shri Ved Prakash Gaur, Presiding Officer

Dated the 7th day of April, 2011

INDUSTRIAL DISPUTE L. C. No. 228/2004**Between:**

Sri D. Venkateswarlu,
S/o D. Prasad,
R/o Karlampudi Post, Amravati Mandal,
Guntur District.

...Petitioner

AND

1. The Asst. General Manager,
State Bank of India,
Personal Section, Zonal Office,
Labbipet, Vijayawada.
2. The Chief General Manager,
State Bank of India,
Personal Department,
Local Head Office, Bank Street,
Hyderabad.

...Respondents

Appearances:

For the Petitioner : M/s. Nurulla Baig & V. S. S. Narasimha Rao, Advocates

For the Respondent : M/s. B. G. Ravindra Reddy & B. V. Chandra Sekhar, Advocates

AWARD

This petition under Sec. 2 A (2) of the I. D. Act, 1947 has been filed by Sri D. Venkateswarlu, Ex. Messenger of State Bank of India, challenging the order of termination dated 31-3-1997 and for his reinstatement in service with consequential benefits and back wages.

2. The Petitioner has stated that he joined in the services of the Respondent as Messenger from 1986 in State Bank of India and he worked upto 31-3-1997 and thereafter he was disengaged and was ordered to stop the work.

3. Petitioner made several representations and also filed Writ petition along with 200 others employees before the Hon'ble High Court of A.P., which was registered as WP.4194/97 and other petitions Nos. 9206/97, 5087/97 etc., which were disposed of by a common order by Hon'ble Justice Somasekhara of Hon'ble High Court against which management has filed Writ Appeal No. 86/98 which was decided and ordered that Petitioner should approach Labour Court/Industrial Tribunal. Against the order of Writ appeal SLP was filed by the Petitioner and other employees, which was dismissed by the Hon'ble Supreme Court confirming the order of the Writ Appeal.

4. Petitioner is a member of scheduled caste and belongs to a poor family. There was agreement between the employees union and the management in which it was agreed that those employees who have completed minimum of 30 days in any calendar month or 75 days in aggregate in 36 calendar months will be called for interview by virtue of settlement dated 17-8-1984, thereafter another settlement was also entered into between the employees and management on 17-7-1989, subsequent agreement dated 16-10-1988, 27-10-1988, followed by agreement dated 26-4-1994 was also entered into between parties, in all the settlements it was agreed that the employees who have put in a certain number of days will be considered for absorption and a panel will be prepared of those employees. The Petitioner's name find place in the list prepared by management but Petitioner was not absorbed, not only that Justice Sri Somasekhara of Hon'ble High Court of A.P., by order dated 1-1-1998 directed Respondent bank to absorb all the Petitioners which was not complied by the management. The management challenged that order which was quashed by Appellate Authority and order of the Appellate Authority amended by Hon'ble Supreme Court hence, the Petitioner has filed this present petition.

5. Counter has been filed by the Respondent management. Management has also admitted that several

agreements as mentioned by the Petitioner have been entered into between the management and the union and the employees were categorised into three categories :—

(A) Those, who have completed 240 days of temporary service in 12 calendar months or less after 1-7-1975.

(B) Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

(C) Those, who have completed minimum of 30 days aggregate temporary service in any calendar year after 1-7-1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

6. As per terms of the agreement dated February, 1997 the last date of the panel was to expire on 31-3-1997. The Petitioner was not found suitable in the order of seniority, he was not considered for absorption. Petitioner was engaged intermittently when the regular employees were not available for sweeping and cleaning of the office he was not regularly appointed employee nor he was sponsored by the Employment Exchange as such, no legal right is vested in the Petitioner for being absorbed in the bank's services. Petition is devoid of merit and deserves to be dismissed.

7. Parties were directed to file their evidence. Petitioner Sri D. Venkateswarlu has appeared, examined in chief and presented himself for cross-examination. He has filed xerox copies of paper notification Ex.W1, panel list Ex.W2, service certificates Ex.W3 and W4 dated 17-3-1986 and 6-2-1989, circular regarding ban on appointment of temporary employees in subordinate cadre Ex.W5, paper notification Ex.W6, second panel list Ex.W7, transfer certificate Ex.W8, employment registration card Ex.W9 and caste certificate Ex.W10. Management has filed affidavit of Sri P. Madhumohan Patro, Chief Manager (HR), State Bank of India, Vijayawada who has marked 12 documents Ex.M1 to M12. He appeared for cross-examination and has been cross examined at length.

8. I have heard counsels for both the parties at length and I have gone through the evidence on record. It has been argued by the Learned Counsel for the workman that workman was engaged in the year 1986 and he has worked upto March, 1997. In proof of his claim he has filed certificates of temporary service Ex. W3 and W 4 to show that Sri D. Venkateswarlu worked for one day on 17-3-1986 and from 6-2-1989 to 3-3-1989 for 25 days. Learned Counsel for the Petitioner argued that Petitioner has worked for 153 days altogether under the management of Respondent, thus, he is entitled for absorption in the bank's service as per the agreement entered into between the bank management and the employees union. The Learned Counsel for the Petitioner further argued that the Petitioner has put in total number of 153 days though intermittently

but under the terms and conditions of the agreement entered into between the employees union and the management. Petitioner's case is covered under category 'C' of categorization of the employees as such, the Petitioner has become entitled for absorption.

9. Against the above argument of Learned Counsel for the Petitioner, Learned Counsel for the Respondent has argued that even if the Petitioner has put in 153 days service in total and he comes within the category 'C' employees, it is not vested right of the Petitioner to be absorbed in the services of the bank unless other formalities and rules of the absorption has been fulfilled by the Petitioner. The Petitioner was called for interview as per his own document but whether he was empanelled after the interview or not has not been proved by him. More over, there is another categories 'A & B' of the employees, who put in 240 days of temporary service in 12 calendar months and who put in 270 days aggregate service in 36 calendar months, their case was to be considered on priority basis in comparison to those placed in category 'C' of the employees. It was the duty of the Petitioner to prove that anybody or any person junior to him or who has put in less number of working days in comparison to the Petitioner was absorbed by the bank. Secondly, the Petitioner has not been able to prove that what was the outcome of the result of the interview whether he was empanelled after the interview or not has not been proved by the Petitioner as such, the bank has not committed any illegality in disengaging the Petitioner who has worked intermittently when the work was available with the bank. Therefore, the action of the management is neither illegal nor arbitrary nor violative of the principles of natural justice and Petitioner is not entitled for any relief.

10. In light of the above argument of the Learned Counsel for the parties this Tribunal has to consider following points for adjudication:-

(I) Whether the action of the management in disengaging the Petitioner from service is illegal, arbitrary and violative of principles of natural justice ?

(II) To what relief if any, the Petitioner is entitled for ?

11. Point No. (I) : It is undisputed fact that the Petitioner has worked in the bank when the work was available with the management. The Petitioner in his cross-examination has admitted that he worked for a period of 153 days intermittently and he was not sponsored by Employment Exchange. Though Petitioner states that he has worked for 153 days, but at the same time he has admitted that he worked with the bank whenever work was available and given by the Manager. The Petitioner alleged to have filed xerox copy of the service certificate or number of working days he put in as temporary messenger with the bank management. These certificates

have not been proved by the Petitioner workman. Even if it is presumed that Petitioner has worked for 153 days that itself does not confer any right on Petitioner for absorption in the bank's services. Learned Counsel for the Petitioner has relied upon case law of Hon'ble High Court of Karnataka reported in 2005 (1) LLJ page 126 in the matter of State Bank of India, Bangalore Vs. T. N. Jaya Ram wherein Hon'ble Karnataka High Court has held that, "the claim of those employees who has not completed 30 days in one calendar year are not entitled for regularization." However, the Petitioner workman has not been able to place before this Tribunal any such rule, which authorizes for the regularization of those employees who has put in more than 200 days of the service in 36 calendar months. There is agreement between the parties under which employees were given option to apply for regularization and it was agreed between the union and the management that panel will be prepared on the basis of the interview and such panel will be remained enforced for a particular period and existing vacancies will be filled out of the candidates listed in the panel. Petitioner of this case has not placed any paper to prove that he was selected by the management or he was empanelled for absorption in the service. Unless, the Petitioner was empanelled for absorption he can not claim right of absorption. The case law cited by Learned Counsel for the Petitioner reported in 2005 (1) LLJ page 126 is not applicable in the present case. In the same way the case law reported in 2003 (1) LLJ page 219 is also not applicable in the present case. The bank's service is a public utility service and there is procedure for recruitment to the banking services. Petitioner has not been able to prove that he was selected by the empanelment committee for absorption in the bank's service. He was not sponsored by the Employment Exchange as well. As such, in view of the agreement of 1997 in which the empanelled candidates were to be absorbed by end of the March, 1997, since name of the Petitioner does not find place in the empanelled list the disengagement of the Petitioner is neither bad in the eye of law nor against the terms of the agreement entered into by the bank employees and the bank management. Since Petitioner was not selected by the empanelment committee he was not sponsored by the Employment Exchange he was engaged by the Manager when the work was available in the branch he has no right or authority for absorption as he was not appointed according to the recruitment rules of the public utility services as held by Hon'ble Supreme Court of India in Umadevi Vs. State of Karnataka. Point No.1 is decided accordingly.

12. Point No. (II) : Petitioner has not been able to prove that his disengagement from service was illegal, arbitrary or against principles of natural justice. Petitioner is not entitled for any relief claimed by him. Point No. (II) is decided accordingly.

13. In view of the above discussion, this Tribunal is of the opinion that petition deserves to be dismissed and it is dismissed, hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 7th day of April, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

WW1: Sri D. Venkateswarlu

Witnesses examined for the Respondent

MW1: Sri P. Madhu Mohan Patro

Documents marked for the Petitioner

- Ex.W1: Copy of news paper advertisement
- Ex.W2: Copy of 1st panel list
- Ex.W3: Copy of service certificate
- Ex.W4: Copy of service certificate
- Ex.W5: Copy of circular regarding lapse of panel
- Ex.W6: Copy of paper notification
- Ex.W7: Copy of 2nd panel list
- Ex.W8: Copy of transfer certificate
- Ex.W9: Copy of employment registration card
- Ex.W10: Copy of caste certificate

Documents marked for the Respondent

- Ex.M1: Copy of settlement signed between All India SBI Staff Federation and SBI dtd.-17-11-1987
- Ex.M2: Copy of settlement signed between All India SBI Staff Federation and SBI dtd. 16-7-1988
- Ex.M3: Copy of settlement signed between All India SBI Staff Federation and SBI dtd. 27-10-1988
- Ex.M4: Copy of settlement signed between All India SBI Staff Federation and SBI dtd. 9-1-1991
- Ex.M5: Copy of minutes of conciliation proceedings held before RLC(C), Hyderabad dtd. 9-6-95
- Ex.M6: Copy of settlement signed between All India SBI Staff Federation and SBI 30-7-1996
- Ex.M7: Copy of memorandum of understanding dtd. 27-2-1997
- Ex.M8: Copy of statements giving the particulars of 1989 Messsengerial panel
- Ex.M9: Copy of statements giving the particulars of 1989 Non-Messsengerial panel
- Ex.M10: Copy of statement of 1992 panel
- Ex.M11: Copy of judgement of Hon'ble High Court in WANO.86/98 dtd.1-5-1998
- Ex.M12: Copy of judgement in SLP No.11866-11888 of 1998 dtd.10-8-98.

नई दिल्ली, 21 सितम्बर, 2011

AWARD

का.आ. 2912.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 26/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-12025/01/2011-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2912.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.26/2006) of the Central Government Industrial Tribunal-cum-Labour Court Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, received by the Central Government on 19-9-2011.

[No. L-12025/01/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present : - Shri Ved Prakash Gaur, Presiding Officer

Dated the 7th day of April, 2011

INDUSTRIAL DISPUTE L. C. No. 26/2006

Between:

Sri O. Prabhakar,
S/o David,
R/o Idamakallu Village, Via Rajupalem,
Prakasam District.

...Petitioner

AND

The Chief General Manager (Personnel),
State Bank of India, LHO,
Bank Street, Hyderabad.

... Respondent

Appearances:

For the Petitioner: M/s. S. Prasada Rao, C. Bala
Subrahmanyam, K. Jhansi Rani & K.
Bharathi, Advocates

For the Respondent : M/s. B. G. Ravindra Reddy & R.V.
Chandra Sekhar, Advocates

This petition under Sec.2 A (2) of the I.D. Act, 1947 has been filed by Sri O. Prabhakar, Ex. Messenger of State Bank of India, challenging the order of termination dated 31-3-1997 and for his reinstatement in service with consequential benefits and back wages.

2. The Petitioner has stated that he joined in the services of the Respondent as Messenger on 1-7-1981 in State Bank of India, Prakasam District where he worked upto 31-3-1997 and thereafter he was disengaged and was ordered to stop the work.

3. Petitioner made several representations and also filed Writ petition along with 200 others employees before the Hon'ble High Court of A.P., which was registered as WP.4194/97 and other petitions Nos.9206/97, 5087/97 etc., which were disposed off by a common order by Hon'ble Justice Somasekhar of Hon'ble High Court against which management has filed Writ Appeal No.86/98 which was decided and ordered that Petitioner should approach Labour Court/Industrial Tribunal. Against the order of Writ appeal SLP was filed by the Petitioner and other employees, which was dismissed by the Hon'ble Supreme Court confirming the order of the Writ Appeal.

4. Petitioner belongs to a poor family. There was agreement between the employees union and the management in which it was agreed that those employees who have completed minimum of 30 days in any calendar month or 75 days in aggregate in 36 calendar months will be called for interview by virtue of settlement dated 17-8-1984, thereafter another settlement was also entered into between the employees and management on 17-7-1989, subsequent agreement dated 16-10-1988, 27-10-1988, followed by agreement dated 26-4-1994 was also entered into between parties, in all the settlements it was agreed that the employees who have put in a certain number of days will be considered for absorption and a panel will be prepared of those employees. The Petitioner's name find place in the list prepared by management but Petitioner was not absorbed, not only that Justice Sri Somasekhar of Hon'ble High Court of A.P., by order dated 1-1-1998 directed Respondent bank to absorb all the Petitioners which was not complied by the management. The management challenged that order which was quashed by Appellate Authority and order of the Appellate Authority amended by Hon'ble Supreme Court hence, the Petitioner has filed this present petition.

5. Counter has been filed by the Respondent management. Management has also admitted that several agreements as mentioned by the Petitioner have been entered into between the management and the union and the employees were categorised into three categories:—

(A) Those, who have completed 240 days of temporary service in 12 calendar months or less after 1-7-1975.

(B) Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

(C) Those, who have completed minimum of 30 days aggregate temporary service in any calendar year after 1-7-1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

6. As per terms of the agreement dated February, 1997 the last date of the panel was to expire on 31-3-1997. The Petitioner was not found suitable in the order of seniority, he was not considered for absorption. Petitioner was engaged intermittently when the regular employees were not available for sweeping and cleaning of the office. He was not regularly appointed employee nor he was sponsored by the Employment Exchange as such, no legal right is vested in the Petitioner for being absorbed in the bank's services. Petition is devoid of merit and deserves to be dismissed.

7. Parties were directed to file their evidence. Petitioner Sri O. Prabhakar has appeared, examined in chief and presented himself for cross examination. He has filed xerox copies of service certificate allegedly issued by State Bank of India dated 6-8-1988 Ex. W1, statement of number of days worked by him from 1981 to 1983 Ex. W2, representation to Chief General Manager Ex. W3, and chart showing number of days he worked in Komaravolu branch of SBI in the year 1991, 1992 and 1993 Ex. W4. Management has filed affidavit of Sri R. Venkateswara Rao, Chief Manager (HR), State Bank of India, Tirupathi who has marked 12 documents Ex. M1 to M12. He appeared for cross examination and has been cross examined at length.

8. I have heard counsels for both the parties at length and I have gone through the evidence on record. It has been argued by the Learned Counsel for the workman that workman was engaged in the year 1981 and he has worked upto March, 1997. In proof of his claim he has filed certificate of temporary service Ex. W1 to show that Sri O. Prabhakar worked for 1 day on 19-1-1984, Ex. W2 to show that Sri O. Prabhakar had worked for 65 days from July to September, 1981, like wise he worked in the months of July, October, November and December, 1982 for 62 days and in the months of September, October and November, 1983 for 72 days in total 199 days and Ex. W4 to show that he worked for 69 days from 1-4-1991 to 31-3-1992, for 114 days from 1-4-1992 to 31-3-1993 and for 81 days from 1-4-1993 to 31-3-1994 in total for 264 days. On the basis of these documents the argument of Learned Counsel for the Petitioner is that Petitioner has worked for 199 days before interview and after interview he worked for 264 days under the management of Respondent, thus, he is entitled for absorption in the bank's service as per the agreement entered into between the bank management and the employees union. The Learned Counsel for the Petitioner further argued that the Petitioner has put in total

number of 463 days though intermittently but under the terms and conditions of the agreement entered into between the employees union and the management. Petitioner's case is covered under category 'C' of categorization of the employees as such, the Petitioner has become entitled for absorption.

9. Against the above argument of Learned Counsel for the Petitioner, Learned Counsel for the Respondent has argued that even if the Petitioner has put in 463 days service in total and he comes within the category 'C' employees, it is not vested right of the Petitioner to be absorbed in the services of the bank unless other formalities and rules of the absorption has been fulfilled by the Petitioner. The Petitioner was called for interview as per his own document but whether he was empanelled after the interview or not has not been proved by him. Moreover, there is another categories 'A & B' of the employees, who put in 240 days of temporary service in 12 calendar months and who put in 270 days aggregate service in 36 calendar months, their case was to be considered on priority basis in comparison to those placed in category 'C' of the employees. It was the duty of the Petitioner to prove that anybody or any person junior to him or who has put in less number of working days in comparison to the Petitioner was absorbed by the bank. Secondly, the Petitioner has not been able to prove that what was the outcome of the result of the interview whether he was empanelled after the interview or not has not been proved by the Petitioner as such, the bank has not committed any illegality in disengaging the Petitioner who has worked intermittently when the work was available with the bank. Therefore, the action of the management is neither illegal nor arbitrary nor violative of the principles of natural justice and Petitioner is not entitled for any relief.

10. In light of the above argument of the Learned Counsel for the parties this Tribunal has to consider following points for adjudication :—

(I) Whether the action of the management in disengaging the Petitioner from service is illegal, arbitrary and violative of principles of natural justice?

(II) To what relief if any, the Petitioner is entitled for?

11. **Point No. (I):** It is undisputed fact that the Petitioner has worked in the bank when the work was available with the management. Though Petitioner states that he has worked for 199 days in the years 1981 to 1983 and for 264 days in the years 1991 to 1993, but at the same time he has admitted that he worked with the bank whenever work was available and given by the Manager. The Petitioner alleged to have filed xerox copy of the service certificate or number of working days he put in as temporary messenger with the bank management. These certificates have not been proved by the Petitioner.

workman. Even if it is presumed that Petitioner has worked for 463 days that itself does not confer any right on Petitioner for absorption in the bank's services. Learned Counsel for the Petitioner has relied upon case law of Hon'ble High Court of Karnataka reported in 2005 (I) LLJ page 126 in the matter of State Bank of India, Bangalore Vs. T. N. Jaya Ram wherein Hon'ble Karnataka High Court has held that, "the claim of those employees who has not completed 30 days in one calendar year are not entitled for regularization." However, the Petitioner workman has not been able to place before this Tribunal any such rule, which authorizes for the regularization of those employees who has put in more than 200 days of the service in 36 calendar months. There is agreement between the parties under which employees were given option to apply for regularization and it was agreed between the union and the management that panel will be prepared on the basis of the interview and such panel will be remained enforced for a particular period and existing vacancies will be filled out of the candidates listed in the panel. Petitioner of this case has not placed any paper to prove that he was selected by the management or he was empanelled for absorption in the service. Unless, the Petitioner was empanelled for absorption he cannot claim right of absorption. The case law cited by Learned Counsel for the Petitioner reported in 2005 (I) LLJ page 126 is not applicable in the present case. In the same way the case law reported in 2003 (I) LLJ page 219 is also not applicable in the present case. The bank's service is a public utility service and there is procedure for recruitment to the banking services. Petitioner has not been able to prove that he was selected by the empanelment committee for absorption in the bank's service. He was not sponsored by the Employment Exchange as well. As such, in view of the agreement of 1997 in which the empanelled candidates were to be absorbed by end of the March, 1997, since name of the Petitioner does not find place in the empanelled list the disengagement of the Petitioner is neither bad in the eye of law nor against the terms of the agreement entered into by the bank employees and the bank management. Since Petitioner was not selected by the empanelment committee he was not sponsored by the Employment Exchange he was engaged by the Manager when the work was available in the branch he has no right or authority for absorption as he was not appointed according to the recruitment rules of the public utility services as held by Hon'ble Supreme Court of India in Umadevi Vs. State of Karnataka. Point No.1 is decided accordingly.

12. Point No. (II) : Petitioner has not been able to prove that his disengagement from service was illegal, arbitrary or against principles of natural justice. Petitioner is not entitled for any relief claimed by him. Point No. (II) is decided accordingly.

13. In view of the above discussion, this Tribunal is of the opinion that petition deserves to be dismissed and it is dismissed, hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 7th day of April, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

WW1 : Sri O. Prabhakar

Witnesses examined for the Respondent

MW1: Sri R. Venkateswara Rao

Documents marked for the Petitioner

- Ex.W1: Copy of service certificate issued by Branch Manager, State Bank of India, Komarole dt. 6-8-1988.
- Ex.W2: Copy of statement showing particulars of temporary service between 1981-1983.
- Ex.W3: Copy of WW1's representation to the management dt.12-1-1998.
- Ex.W4: Copy of working days chart while working under Branch Manager, State Bank of India, Komarole from 1991 to 1993.

Documents marked for the Respondent

- Ex.M1: Copy of settlement signed between All India SBI Staff Federation and SBI dt.17-11-1987
- Ex.M2: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 16-7-1988
- Ex.M3: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 27-10-1988
- Ex.M4: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 9-1-1991
- Ex.M5: Copy of minutes of conciliation proceedings held before RLC(C), Hyderabad dt. 9-6-95
- Ex.M6: Copy of settlement signed between All India SBI Staff Federation and SBI 30-7-1996
- Ex.M7: Copy of memorandum of understanding dt.27-2-1997
- Ex.M8: Copy of statements giving the particulars of 1989 Messsengerial panel
- Ex.M9: Copy of statements giving the particulars of 1989 Non-Messsengerial panel
- Ex.M10: Copy of statement of 1992 panel
- Ex.M11: Copy of judgement of Hon'ble High Court in WA No. 86/98 dt.1-5-1998
- Ex.M12: Copy of judgement in SLP No.11866-11888 of 1998 dt.10-8-98.

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2913.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दखलू सी.

एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 245/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2011 को प्राप्त हुआ था।

[सं. एल-22012/29/2000-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2913.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 245/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 21-9-2011.

[No. L-22012/29/2000-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/245/2000 Date: 12-9-2011

Party No. 1 : The Sub Area Manager,
Hindustan Lalpeth Opencast Sub Area
of WCL PO : Lalpeth, Distt.
Chandrapur, Maharashtra.

Versus

Party No. 2 : The President,
Lal Zanda Coal Mines Mazdoor
Union, Br. Bengali Camp, Mul Road,
PO & Distt. Chandrapur.

AWARD

(Dated: 12th September, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Sub-Area Manager of WCL and their Shri K. V. Kharalkar, for adjudication, as per letter No. L-22012/29/2000-IR (CM-II) dated 4-8-2007, with the following schedule:—

"Whether the action of the management namely Sub Area Manager, Hindustan Lalpeth Open Cast Sub Area of Western Coalfields Ltd. in dismissing Shri K. V. Kharalkar, Ex-Tripman, Hindustan Lalpeth

Open Cast Sub Area, WCL is legal and justified? If not, what relief the workman is entitled and from which date? What other directions are necessary in the matter?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union, Lalzanda Coal Mines Mazdoor Union ("the Union" in short) filed the statement of claim and the management of W.C.L. ("party no. 1" in short) filed the written statement.

The case of the workman as projected by the union in the statement of claim is that he was appointed as a tripman in Hindustan Lalpeth Open Cast Mine and his service record was clean and unblemished and while he was working as such, charge sheet dated 14-3-99 was issued against him, on the allegation of abusing the Mine Superintendent in filthy language after forcibly entering into his office on 13-3-99 and he denied the charges levelled against him and a departmental enquiry was conducted against him, but reasonable opportunity was not given to him to defend himself and the enquiry was concluded ex-parte and copy of proceedings of enquiry was not supplied to him and the enquiry officer proceeded with the enquiry, inspite of intimating him in writing about his inability to attend the enquiry on genuine grounds and the entire enquiry was conducted in utter violation of the principles of natural justice and the Disciplinary Authority passed the order of dismissal mechanically on 25-5-1999 and the order of dismissal suffers from lack of application of mind and is arbitrary and illegal and the Sub Area Manager was totally biased against the workman and the entire disciplinary proceedings which culminated in the dismissal of the workman is beset with malafides and arbitrariness and therefore, is illegal and unsustainable in law and is required to be set aside.

Prayer has been made to set aside the order of dismissal dated 25-5-1999 and for reinstatement of the workman in service with continuity and full back wages.

3. Refuting the allegations, the party no. 1 in their written statement have pleaded inter-alia that the workman was working as a Tripman at Hindustan Lalpeth Mine, before his dismissal from service and on 13-3-1999 at about 6 PM, he forcibly entered into the office of the Supdt. of Mine/Manager, closed the door from inside, loudly abused him in very filthy language and threatened him of dire consequences and as his conduct was violative of the certified standing orders, charge sheet dated 14-3-1999 was issued against him and he was asked to submit his explanation within three days of the receipt of the charge sheet and he was also placed under suspension pending enquiry and as the explanation submitted by him was not satisfactory, a departmental enquiry was ordered to enquire into charges and Shri K.R. Acharya, Personnel Manager, Rayawari Sub Area was appointed as the enquiry officer

and the enquiry officer, after due notice to the workman started the enquiry on 29-3-1999 and the workman appeared in the enquiry and submitted a letter expressing his desire to take the help of one Shri S. S. Beg, fitter as his co-worker and as such, the enquiry was adjourned to 30-3-1999 at 10.00 AM, which was noted by the workman and on 30-3-1999 the workman appeared at about 11.10 AM and filed any application for adjournment, so the enquiry was adjourned to 3-4-1999 by the enquiry officer and although the workman was present personally, he refused to sign the proceedings and on 3-4-1999, the workman appeared with his co-worker, Shri S. S. Beg and prayed for adjournment of the enquiry on the ground of observance of 13th day's Ceremony of the death of his brother, so the enquiry was adjourned to 12-4-1999 and on 12-4-1999, the charges were explained to the workman in presence of his co-worker and the workman denied the charges and then the procedure of the enquiry was explained to the parties and then, witness O. P. Kátare of the management was examined and he was cross-examined by the co-worker of the workman and thereafter, the enquiry was adjourned to 18-4-1999 with the consent of both the parties and on 18-4-1999, though the workman was present, his co-worker was absent and as the workman did not agree to take part in the enquiry without his co-worker, the enquiry was adjourned to 21-4-1999 to give an opportunity to the workman for his defence and the workman noted the date and on 21-4-1999, as neither the workman nor his co-worker attended the enquiry, the enquiry officer adjourned the enquiry to 24-4-1999, in spite of the request made by the management representative to proceed with the enquiry ex-parte and as on 24-4-1999 the co-worker of the workman did not attend the enquiry, the same was adjourned to 2-5-1999 as per the demand of the workman and on 2-5-1999, the workman and his co-worker appeared and witness no. 2 from the side of the management was examined and he was cross-examined by the co-worker and then the enquiry was adjourned to 8-5-1999 and as on 8-5-1999, the co-worker of the workman did not attend the enquiry, the enquiry was adjourned to 10-5-1999, which was duly noted by the workman, but on 10-5-1999, neither the workman nor his co-worker appeared, so, the enquiry officer proceeded with the enquiry ex-parte against the workman and the remaining witnesses from the side of the management were examined and the enquiry was closed and the enquiry officer submitted his report on 14-5-1999 and the enquiry officer analyzed the evidence produced before him in an objective and dispassionate manner and gave a logical and rational report holding the workman guilty of the charges levelled against him under clauses 26.4, 26.18 and 26.27 of the Certified Standing Orders and a copy of the enquiry report was furnished to the workman vide letter dated 21-5-1999 of the Sub Area Manager, asking him to submit his clarification if any, within three days of receipts of the letter and the workman submitted his explanation vide his letter dated 24-5-1999

(wrongly mentioned as 24-6-1999 in the written statement), but the same was considered not satisfactory and considering the seriousness of the misconduct, the workman was dismissed from services with immediate effect, vide order of dismissal dated 25-5-1999 (wrongly mentioned as 25-2-1999 in the written statement), after obtaining due approval from the Competent Authority. It is also pleaded by the party no. 1 that the enquiry held against the workman was just, fair and proper and his dismissal from service on proved charges of misconduct of a very serious nature is perfectly legal and justified and therefore, the workman is not entitled for any relief.

4. The legality of the departmental enquiry was taken for consideration as a preliminary issue, as the workman was dismissed from service, after holding of a departmental enquiry and vide order dated 23-2-2007, the departmental enquiry was held to be legal and proper.

5. In the written notes of argument, it was submitted by the learned advocate for workman that the charge sheet submitted against the workman was vague and clauses 26.4, 26.18 and 26.27 of the Certified Standing Orders do not attract in the facts and circumstances of the present case and omissions to mention about the evidence in the charge sheet was contrary to the principles of natural justice and the wordings and expression made in the charge sheet clearly indicate the predetermined conclusion by the punishing authority and a departmental enquiry based on such illegal charge is totally vitiated in law and in the enquiry, the workman was not given reasonable opportunity to defend himself and the enquiry was conducted ex-parte. It was also submitted that the enquiry report submitted by the enquiry officer is wholly perverse as the report was prepared basing on extraneous materials like prior action and memos etc, which did not have any connection with charges levelled against the workman and copies of documents were not supplied either at the time of submission of the charge sheet or during the enquiry, for which, the workman was prejudiced and the impugned order of dismissal is grossly disproportionate to the quantum of offence and the order is vindictive in nature and the same is not passed in good faith, but under colorable exercise of right by the party no. 1 and hence not sustainable in law.

6. Per contra, it was submitted by the learned advocate for the management that in the statement of claim, no challenge has been made regarding the perversity of the findings by the workman and the enquiry officer has analyzed the evidence adduced before him in an objective and dispassionate manner and the report is based on evidence on record and not on any other extraneous matter or consideration and according to judicial pronouncement, even if, any other authority could come to different conclusion on the same material, the report of the enquiry officer is not to be set aside, unless it is shown that the

report is such, which no rational and reasonable man could have arrived at such conclusion and the findings of the enquiry officer are not perverse and rules and law have been fully complied, while passing the order of dismissal, hence, the punishment inflicted against the workman cannot be held to be illegal and set aside on this ground and the charges levelled against the workman are very serious in nature and such charges have been proved in the departmental enquiry and for such rowdy, riotous, disorderly and violent behaviour, the only appropriate punishment was his dismissal from service and any lesser punishment would have created a bad precedent and led to encouragement of indiscipline.

In support of such contentions, reliance was placed on the decisions reported in AIR 1972 SC 2182 (Power Co. Ltd. Vs. The Labour Court II, Lucknow), AIR 1970 SC 1334 (M/s. Perry and Co. Ltd. Vs. P.C. Pal), AIR 165 SC-155 (Tata Oil Mills Co. Ltd. Vs. The Workmen) and 2001 LAB. I.C.-462 (Syed Rahimuddin Vs. Director General), 1996 LAB. I.C. 462 (B.C. Chaturvedi Vs. Union of India), 2003 LAB.I.C.-757 (Regional Manager, UPSRTC Vs. Hoti lal), 2005 LAB. I.C. 4158 (V.Ramana Vs. APSRTC) and 2005 LAB. I.C. 854 (Bharat Forge Co. Ltd. Vs. Uttam Manohar Nakate).

7. Perused the record. Taking into consideration the pleadings of parties, the documents of the departmental proceedings, the enquiry report and the written notes of arguments, it is found that the charges levelled against the workman are not vague and the charges have been mentioned in detail and charges have been correctly framed under the relevant clauses of the Certified Standings Orders. It is also found that the workman had never demanded copy of any document and there is also nothing on record to show that due to non-supply of copy of document, the workman was prejudiced. The workman has also not taken such plea in the statement of claim.

Admittedly, the workman has not challenged the perversity of the findings of the enquiry officer and the proportionality of the punishment in the statement of claim. However, on perusal of the enquiry report it is found that the findings of the enquiry officer are based on the materials produced before him in the departmental enquiry and he has analyzed the evidence in a rational manner and he has also assigned reasonable and cogent reasons in support of his findings. Though the enquiry report shows that documents regarding the previous conduct of the workman were produced in the enquiry the report does not base on the same, but the same is based on the evidence produced before him. Hence, the findings of the enquiry officer cannot be said to be perverse.

So far the punishment is concerned, it is found that charges of very serious misconduct were leveled against the workman and it is found that the said charges have been proved in a properly conducted departmental enquiry. Applying the principles enunciated by the Hon'ble Apex

Court in the decisions as mentioned above and relied on by the party no. 1, it is found that the punishment imposed against the workman is not at all disproportionate to the act of his misconduct and the same is also not otherwise arbitrary. Hence, there is no ground to interfere with the punishment. Hence, it is ordered:

ORDER

The action of the management namely Sub Area Manager, Hindustan Lalpeth Open Cast Sub Area of Western Coalfields Ltd. in dismissing Shri K. V. Kharalkar Ex-Tripman, Hindustan Lalpeth Open Cast Sub Area, WCL is legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2914.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, संख्या-2, धनबाद के पंचाट (संदर्भ संख्या 130/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2011 को प्राप्त हुआ था।

[सं. एल-22012/530/1995-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2914.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 130/96) of the Central Government Industrial Tribunal-cum-Labour Court No.-2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 21-9-2011.

[No. L-22012/530/95-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10
(1) (d) of the I. D. Act, 1947.

Reference No. 130 of 1996

PARTIES: Employers in relation to the management of
FCI, Patna and their workman.

APPEARANCES:

On behalf of the workman : Mr. U. K. Dubey, Authorised
Representative of the Union.

On behalf of the employers : Mr. Laxman Chandra Das,
Manager (IR)

State : Jharkhand.

Industry : Coal.

Dhanbad, dated the 8th September, 2011

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-22012/530/95-IR (C-II) dated 6-11-96.

SCHEDULE

“ Whether the action of the management of Food Corporation of India, Patna in not regularising the services of Sh. Ram Bilash Paswan and 9 others in the grade they are working is justified and legal ? If not, what relief the workmen are entitled ?”

2. The case of the workmen as pleaded in their Written Statement by their Union concerned is that their services as Watchman, Peon, Messenger, Shifter, Sweeper, Stitcher and Dusting Operator etc. are being utilised by the management since their engagement on the specified date mentioned in the annexure by the management to perform the duties of Subordinate Cadre as Casual/Daily rated employee on priority of their works required at the Food Stopage Gulabbagh/Belaury (Purnea). Their attendances marked by the regular staff of the concerned department as 'A' and 'P' for absence and presence respectively. Their salaries were/are being paid to them through monthly bills and occasionally from its Contingency Fund. As per decision of the Board of Directors of the Food Corporation of India (FCI) in its 176th meeting, it was held to regularise the services of all casual/daily rated employees on its rolls completing three months work on or before 2-5-86 against entry level category III and IV posts according to their qualifications. Accordingly as per the Headquarters Circular/letter No. EP-I (4)/86-Volume-II dtd. 6-5-87 more than 100 casuals/daily rated employees have already been regularised in their services as Watchmen by the Regional Management, FCI Patna. The workmen though having full qualifications for it have not been regularised against the post of Class-IV staff, Watchman, Sweeper etc. on which their juniors have been regularised by the management. The Management's action for not regularising them is with a view to victimise them denying their due wages and other benefits such as lunch and medical allowances etc. of Class IV employees for the similar duties their juniors are getting. The concerned workmen are getting their salaries since their engagement as for the Minimum Wages Act in clear violation of the Rule—'Equal pay for equal work' at the hands of the management.

3. Further case of the workmen is that the Head Quarter of the Management as per the Circular No. 28/1986

dt. 2-5-86 had decided henceforth not to engage any casual in the Corporation. Then on the representation by their Union about the regularisation of the casual/daily rated employees on its roll as on or before 2-5-86, the Headquarter Management as per its instructions D.O. Letter dt. 2-5-86 and accordingly all the subordinate Officers as per their D.O. letters dtd. 2-5-86 and subsequent reminder letter No. EP. 1(4)/85-Volume-I dtd. 11-9-86, the casual/daily rated employees as sponsored to the Headquarters were regularised but the Regional Management has neglected the case of the workmen in regularising their services, though they have completed more than three months work in the Corporation continuously on or before 2-5-86 in view of the aforesaid Circular/Letter dtd. 6-5-87. So they are entitled for their regularisation with the similar jobs and all other benefits as the regular staff are getting since their engagement in the work of the Corporation. The Union has decided to represent this case without engaging an Advocate, therefore, the management may not be allowed to engage any Advocate in it.

4. The Union Representative in its rejoinder has pleaded that the entire claim of the workmen/Union being based on the actual work performed by them years together as per the records of the management is perfectly genuine and legal. Previously two depots were functioning one at Purnea Gulabbagh and other at Belaury but now only one depot at Gulabbagh is functioning. The workmen have worked directly under the control of the management only and not under the contractor. The Depot Incharge, and Officer of the Unit, is the authorised person of the management to take any decision for betterment of the Corporation, so he is all in all for that Unit. In fact, contractors are being appointed by the Depot Incharge to co-ordinate in the function of his controlled depot in respect of transportation etc. As the work of Corporation increased as result of Storage Capacity came to 35 Million tonnes instead of 18.5 million tonnes, hence the workmen were employed as casual workmen as per work force more required than its sanctioned strength. The FCI is the big organisation and its offices and depots are functioning in various towns and districts and in all the States of the Country, so the staff of a particular unit cannot be debarred from their regularisation in service as the Surplus until it is declared by the Headquarters New Delhi. In addition to regular treatment for the safety of stocks the workmen performed the job as the Watchman, Sweeper to the job of stitching the bags during the period when there was no work of fumigation. In fact there is a lot of scope of the management to provide them regular job by regularising their services, for which the Headquarter Management has also relaxed the ban as mentioned above. Moreover, the workmen have put more than 240 days work so they cannot be treated as casual workers and their regularisation does not arise against the sanctioned post which is not required for its sanction, as they have completed work continuously

for 240 days in each calendar year for several years. They are still working against the Subordinate cadre post in the Corporation.

5. Specifically refuting the aforesaid allegation of the workmen as imaginary and baseless, the Management has stated in its pleading that the Management had two food Storage depots one its own at Beluri, Purnea, and other hired one at Gulabghat under its control, out of them only the former continued to function in 1990 when the latter was de-hired. The Management awarded contracts to private parties time to time for the jobs of transportation, handling of food grain storage, and its incidental ones including issue of food grains from the food storage depot. It engaged the depot in-charge for exercising supervision and control of the jobs under their own charges. The depot-in-charge used to co-ordinate with the contractors in aforesaid jobs. The Management had deployed sufficient number of Class III and IV workmen to effectively supervise the jobs connected with the depots. No vacancy existed for Class IV post nor any post of a messenger was sanctioned in the depot. The three casual workers engaged as Water Carriers used to bring water as well as to perform the job of a messenger. They were regularised in the year 1988-89 as per the Management's Circular dtd. 6-5-87. Even the permanent workmen after de-hiring the Gulabghat depot became surplus. None of the workmen held any post on permanent or regular basis, rather mostly of them were exigently engaged for fumigation work carried on at intervals of 3-6 months during pick period of the transportation of more materials, for sweeping, collecting and filling the food grain in the bags. There is no fixed job for the workmen. None possess the requisites for regularisation as per the aforesaid circular. The Central Government has passed the order under the F. C. Act banning on employment of a person against creation of new post or any vacant post, the Circular dtd. 6-5-87 stands automatically withdrawn, so the workmen claim for regularisation thereunder is baseless. Merely putting 240 days attendance in absence of sanctioned permanent post cannot be their claim for regularisation against the statutory ban upon the Management; it cannot fill up vacant post through their regularisation. After existence of vacancies and proper sanction from the Central Govt. for filling up such vacancies the rule of regularisation has to be promulgated and the workmen falling under the rules can be regularised but these workmen are not covered by the Circular. The casual workers are engaged in exigencies now and then. Mostly the workmen are illiterate to read or write books and registers etc. as watchmen, messenger etc. No attendance Register is maintained for casual workers rather their attendance sheets convert into their bills and vouchers through which they receive their payments for the nature of the jobs done. Moreover, the circular became defunct after the order of the Central Govt.'s Order banning recruitment, regularisation, absorption etc. of workmen into

the employment of the Corporation. The duty hours of casual workers is in exigency for one to six hours on any day, but they get one day wage for 1-2 hours work as per the Minimum Wages Act. Some work like fumigation as required takes few hours. Therefore, the workmen are not entitled to regularisation.

FINDING WITH REASONING

6. In this case, WW-1 Ram Bilas Paswan, WW-2 Harendra Nath Biswas, both of the workmen in behalf of the Union, MW-1 Shambhu Sharma, the Asstt. Manager (Depot), and MW-2 M.L. Banerjee, the Dy. Manager (Per) from the side of the Management have been examined.

The Statement of WW-1 Ram Bilas Paswan as one of the workmen deposing for self and other concerned workmen is that they worked for 24 to 25 days and drew their wages once in a month from the management according to the bills prepared by it. As a part of his duty he used to open the Godown, sweep it, collect the grains, stitch the bags and he was to spray over the foodgrains for preservation and also he used to do all such work as instructed by the Management on priority basis. The Management used to pay him daily wage but on monthly basis. The witness WW-1 has proved the documents showing the attendance of the concerned workmen including the present one (photo copies of their working days and the payment amount-marked as Ext.W-10 series). The forwarding letter of the management to the District Manager, FCI concerned dtd. 15-7-94 as Ext.W.-11 specifying the requisite qualifications of all the nine concerned workmen as submitted, the Regional Manager's letter dtd. 13-2-95 concerning the matter of their regularisation of service as Ext.W-12. According to the witness though he has been working continuously under the management on daily wages basis for about 15/20 years and the services of other daily workmen have already been regularised by the management in the year 1988 but the management did not regularise their services, that Fulmati Devi, one workman died but the rest are still working, though he has admitted that they were engaged as casual labourers without any appointment letter, denying their regularisation by the management in lack of their requisite qualification and experience.

7. WW-2 Harendra Nath Biswas, as a workman has stated to have started working as a casual worker from February, 10, 1986 at FCI F.S.D. Gulabghat Depot now working at Beluri Depot along with the other workmen corroborating the evidence of his colleague Ram Bilas Paswan, WW-1, he has stated they were not allowed to sign the Attendance Register rather their presence or absence was marked by the Management on the basis of which their wages were prepared and paid; that his colleagues Banarsi Mandal, Subhash Thakur, M. K. Samiyar, casual worker have been regularised and that they (the concerned workmen) worked more than 240 days in each

year as a casual labour, and still working so he claimed their regularisation. He has also proved the copies of the Bill prepared by the Management for the payment of wages from March, 1993 to 1995 as Ext. W-14 series, the copy of the seniority list of the watchmen and the copy of the order concerning vacancy position of Class IV staff of the FCI under Bihar Region as Ext. W-15 and W-16 respectively. The witness in his cross-examination could not ascertain the exact date of joining but working since 19th February, 1986 as casual worker. He used to serve drinking water to the staff and also swept the Godown and sprayed medicines over the food grains over the depot, though the management did not issue any appointment letter for his engagement as casual worker, and he heard of the formation of a committee by the management in 1987 for regularisation of casual workers. The workmen are alleged to have submitted their qualifications certificates to the Management for consideration of their regularisation, expressing his ignorance about the qualification of one workman Kritya Nand Mallic. He (WW-2) has denied that the concerned workmen did not work continuously for three months upto 2-5-86, in respect of which in fact the management prepared the bills showing them as casual labour, and Beluri Depot as a post of Messenger.

8. Whereas the statement of MW-1 Shambhu Sharan the retired Assistant Manager (Depot) reveals that during his tenure from 1996 to 1999 accordingly at FSD Beluri (Purnea) the concerned workmen as a casual labour in the depot used to sweep and fill up bags with grains in the depot in exigency. The concerned workmen was not given any appointment letter for it nor was ever allotted any shifting duty of the Watchman for eight hours rather I found them (the concerned workmen) working in each month in the depot of Beluri during my tenure from 1996-1999 during which as the Depot Incharge the witness used to prepare bills for the payment of their wages though he could not recall it the number of the days of the work of the workmen concerned at the relevant time.

9. MW-2 M.L. Banerjee, the Deputy Manager (Personnel) the FCI, Regional Office, Patna has stated that on 29-4-88 while he was a member of the Committee for regularisation of casual employees, after consulting the particulars of concerned workman Ram Bilas Paswan they (management) could not get any scope to recommend his name for regularisation in service. As per some of the criterias fixed for it, namely, (i) the person must be a casual employee, (ii) he must have completed three months service as on 2-5-86 and he must have passed Class Seven examination but the concerned aforesaid workman had failed to fulfil the aforesaid conditions. According to the witness the casual employees and the casual labours have separate entity, as the casual employees perform the work as a Water Carrier and a messenger in the office but casual labours work sweeping the floor of the shade for collecting picked grains, and assisting quality control staff in

fumigation and salvaging the stock etc. The witness could not recall if the cause non-regularisation of the concerned workmen due to non-fulfilment of the aforesaid condition was intimated to him, though the papers of the management transpired the case of the workman concerned for his regularisation could not be considered for non-receipt of the particulars and the papers (produced on behalf of the workmen) have been marked as Ext. W-13. The witness (MW-2) has denied the regularisation of the workmen's service inspite of the fulfilment of the condition noted above.

10. Mr. U. K. Dubey, the Union Representative for the workmen submits that these nine workmen having completed three months continuous service on or before 2-5-86 as well as having requisite qualifications of 7th class Pass have worked as a casual worker under the Management as apparent from the Exts. W-10 series, W-11, W-13 and W-14 series which prove their continuous service for more than 3 years even in lack of any qualification. So they are entitled to regularisation of their service as held in the case of Bhagwati Prasad -versus- Delhi State Mineral Corporation, AIR 1990 (page 371-373). Further plea of the Union representative is that many juniors such Jagdish Mahato (Sl. No. 60) who was engaged on 24-4-86 have been regularised by the management but the case of the workmen has been unequally treated by the management which is against the principles of equality to public employment under Article 14 and 16 of the Indian Constitution in respect of which, the Hon'ble Apex Court in the case of Union of India -versus- Tulsiram Patel, AIR 1985 at page 416, has been pleaded to hold : "Equality is a dynamic concept with many aspects and dimensions and it cannot be crippled, cabined and confined." It has also been submitted by the Union representative that these workmen have completed 240 days work in each calendar year and they are still in the service of the FCI for 15 to 25 years.

11. Whereas the contention of the Management Representative is that none of the persons concerned regularly worked rather the casual workers have been engaged by the management in exigency ; besides that the concerned persons did not possess the requisite qualification and did not fulfill the conditions for their regularisation as per Circular dtd. 6-5-1987, which automatically stood withdrawn following the Central Government's rule banning the employment of any persons in the terms of the provision of the Food Corporation Act, so the casual labourers can neither be regularised nor entitled to any relief. It is also contended on behalf of the management that out of the nine persons, Smt. Fulmati Devi has already expired long back and that the claim of these persons based on the photo copy of the fabricated and false documents cannot be sustainable in the eye of law. Admittedly, the casual worker who completed 90 days service on or before 2-5-86 against Class III and IV posts,

...as prescribed as ...regularised on the post ...the present ...FCI bill.

On the consideration of the materials ...the present reference, it ...that the case of Ref. ...along with ...the predecessor Presiding Officer ...from the Order sheets ...the Ref. ...as ...the head office of the ...and the workmen for ...the case of the ...the nine workmen under ...the relevant documents concerning ...the ...were marked as ...proof dispensed with and ...some documents of ...marked as Exts.W- ...strong objection) in the ...by the predecessor Presiding Officer ...No. 25-4-14-8-99 and Order ...All the documents as ...reference which has been disposed ...the present nine ...of the present reference case are almost replica of ...Ext.W-10 terms in W-16, in this ...only relevant documents ...Ministry of Labour's letter ...12-12-76 on its ...Delhi's letter dtd. ...Circular No. 2 of 1989 (Ext.W-8 and ...reference Case No. ...the prohibition of employment ...Cleansing, Dusting and ...of the establishment concerned ...of the Central Government.

1. On the consideration of the materials available ...the relevant documents ...Reference Case No. 115/ ...are indisputable.

(ii) On the nine workmen including Sl. No. 1 Sri Ram ...the list annexed with the order ...working as casual labourer ...management.

(iii) As regards the working period of service of ...concerned as on 2-5-1986 as a factor ...by the management for their ...the management of the ...Purnea has been making ...with the authorities concerned ...letter dt. 9-11-85 (Ext.W-1)

the letters of Regional Manager, Patna dt. 25-9-87, and 31-5-94, 13-2-95 (Ext.W-2 series) same as Ext.W-12 the Assistant Manager, FCI dt. 31-2-94 and letter dt. 15-7-94, Belouri (Purnea) Exts. W-3 and W-11 respectively, District Purnea FCI letter dt. 24-6-89 (Ext.W-4) and FCI Zonal Manager Calcutta's letter dt. 23-1-1987 (Ext.W-5). These nine casual workers as per Ext.W-1 series the statements prepared by the Management concerned of District Office Purnea as well as Belouri (Purnea) are shown to have been initially engaged in the respective years as under :

Sl. No.	Name of the workman	Date/year of engagement.
1.	Shri Ram Bilas Paswan	1978
2.	Shri Hari Bilas Paswan	1980
3.	Smt. Daya Rani	1984
4.	Smt. Sumitra Devi	1984
5.	Shri Harendra Nath Biswas	1984
6.	Shri Ram Deo Das	28-1-86
7.	Shri Mahadeo Paswan	October, 1984
8.	Shri Krityanand Mallik	Jan., 1980

and

9. Smt. Fulmati Devi, Now dead June, 1978

(iii) The papers of the management as admitted by MW-2 M.L. Banerjee, the Dy. Manager, Personnel, FCI-Regional Office, Patna transpired the case of the concerned workmen for regularisation could not be considered for non-receipt of the particulars which is apparent from the Management's paper Exts.W-12, FCI Patna's letter dt. 13-2-95 along with the acquittance rolls of the casual workmen concerned namely 1. Sri Ram Bilas Paswan, 2. Sri Hari Bilas Paswan, 3. Smt. Daya Rani, 4. Sumitra Devi, 5. Harendra Nath Biswas, 6. Ramdeo Das and 7. Mahadeo Das as well as Ext. W-13, the District Office Purnea list of the workmen whose particulars were not received.

14. The Seniority list of watchmen as on 31-12-98 in respect of Bihar Region (of the FCI marked as Ext.W-15) as admitted by the management and the photo copy of the statements showing the vacancy status of Class IV staff of the FCI under the signature of Assistant Manager, Personnel FCI, Regional Office, Patna Bihar as Ext. W-16 also remained unsubmitted by the Management.

15. In addition to the aforesaid facts, I also find from Ext. W-10 series, the casual labour bill's (photo copies) which prove unambiguously that out of the aforesaid nine

workmen, the workmen as per the list annexed with the order of reference Sl.No.1 to 5 namely 1. Shri Ram Bilas Paswan, 2. Shri Haribilas Paswan, 3. Smt. Daya Rani, 4. Smt. Sumitra Devi and 5. Shri Harendra Nath Biswas have been working since 1984 to 1989, 1992 - 1993 and Sl. No. 6 Ramdeo Das had served from April, 1992 to March, 1993 only and from December, 1993 to November, 1994. Sl. No. 7 Mahadeo Paswan had served from November, 1984 to March, 1985, March, 1986 to 1987, 1992 to 1993, Sl. No. 8 Krityanand Mallick as per Ext. W-1 served the FCI up to 8-10-1985 since January, 1980 and thereafter from December, 1993 to November, 1994 so he has also completed three months of his service as casual labour on 2-5-86 but Sl. No. 9 Fulmati Devi (dead) served from December, 1993 to November, 1994 as apparent from the Ext. W-14 series, the casual labour's bills for the year 1993-94, which proves the working of all the aforesaid workmen as Casual Labour for the period of December, 1993 to November, 1994. Both the aforesaid series of Casual Labour's Bills do not prove the case of Ramdeo Das working before the date as on 2-5-86 even thereafter regularly except in the letter years 1992 to 1994. Hence, I find that the case of the workmen at Sl. No. 1 to 5, 7 and 8 as per the list of the workmen has been made out but the case of the workman Sl.No. 6 Ramdeo Das, and Sl. No. 9 Smt. Fulmati Devi (dead not made out).

16. Viewing the nature of the employment of the workmen aforesaid seven workmen as casual labour who had completed requisite qualifications i.e. the completion of minimum three months their service as on 2-5-1986 are still working, had the management of the District Office furnished the Headquarters authorities with their particulars as required- regularly up to 1996, their services would have been regularised. Under these circumstances I hold that out of the nine workers Sl. No.1 Ram Bilas Paswan, Sl. No. 2 Sri Haribilas Paswan, Sl. No.3 Daya Rani, Sl. No.4 Sumitra Devi, Sl. No. 5 Shri Harendra Biswas, Sl. No.7 Shri Mahadeo Paswan and Sl. No.8 Krityanand Mallick are quite entitled to regularisation in the Group-D post. But the rest workmen namely Sl. No. 6 Ramdeo Das and Smt. Fulmati Devi are not entitled to it.

Therefore, the action of the management of FCI, Patna not regularising the services of aforesaid Ram Bilas Paswan and others as mentioned above is held not justified and legal. But action of management not regularising the workmen Sl. No.6 Ramdeo Das and Sl. No.9 Smt. Fulmati Devi in their services was quite justified and legal. Thus only the aforesaid workmen namely Ram Bilas Paswan, Hari Bilas Paswan, Smt. Daya Rani, Smt. Sumitra Devi, Shri Harendra Nath Biswas and Mahadeo Paswan and Krityanand Mallick are entitled to regularisation of their services in Group-D posts within two months from the date of publication of the Award.

KISHORI RAM, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2915.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 23/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2011 को प्राप्त हुआ था।

[सं. एल-22012/152/2001-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2915.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 21-9-2011.

[No. L-22012/152/2001-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT /NGP /23/2002

Date: 14.09.2011

Party No. 1 : The Dy. General Manager,
Neeljay Sub Area of WCL, At Neeljay
Post Bellora, Tah. Wani. Distt. Yavatmal
Maharashtra.

Versus

Party No. 2 : The Jt. General Secretary,
Rashtriya Koyala Khadan Mazdoor Sangh
(INTUC), 604, Behind Giripeth Post Office,
Opp: RTO Nagpur, Maharashtra - 440010

AWARD

(Dated: 14th September, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Neeljay Sub Area of WCL and their workman Shri Pandurang Chandankar, for adjudication, as per letter No. L-22012/152/2001-IR (CM-II) dated 30-1-2001, with the following schedule:—

"Whether the action of the management of the Neeljay Sub Area of WCL Ltd., Neeljay Post Bellora, Tah.

Wani, Distt. Yavatmal (Mah.) in dismissing Shri Pandurang Madhav Chandankar, Clerk Grade-I from services w.e.f. 11-10-1994 is legal and justified? If not, to what relief he is entitled to?"

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union, Rashtriya Koyala Khadan Mazdoor Sangh (INTUC) ("the Union" in short) filed the statement of claim on behalf of the workman, Shri Pandurang Madhav Chandankar ("the workman" in short) and the management of W.C.L. ("party no. 1" in short) filed the written statement.

The case of the workman as presented by the union in the statement of claim is that the workman was working at Neeljay-II open cast project at the time of his dismissal from service and he was a permanent workman and he was initially appointed as a general mazdoor on 16-4-1975 and on account of his efficient, able and devoted services, he was selected as clerk grade-III and subsequently promoted as clerk grade-II and then as clerk grade-I and on 2-5-1993, a charge sheet was submitted against him under Section 17 (i)(a) of the Standing Orders on the allegations of his tampering the entries in the attendance register in respect of one Shri J.V. Chalam, Shovel Operator, who had been marked as absent from 17-4-1993 to 27-4-1993 and that he scored out the old entries and entered attendance of Shri Chalam and signed the same himself and he was called upon to submit his reply to the said charge sheet and he submitted his reply but party no. 1 being not satisfied with the reply, initiated a departmental proceedings and Shri D. K. Chandok was appointed as the enquiry officer, who conducted the enquiry and submitted his report to the disciplinary authority and basing on the enquiry report, the Dy. General Manager, WCL, Neeljay Sub Area imposed the punishment of dismissal from services against him on 8-10-1994 and though he filed an appeal to the management for his reinstatement, the same was not replied and the union also requested to the Chief General Manager, to communicate the decision on the appeal by letter dated 10/11 January, 1997, but as no reply was received, the dispute was raised before the Assistant Labour Commissioner (Central), Chandrapur and as the conciliation failed, failure report was submitted to the Central Government by the ALC and in its turn, the Central Government referred the industrial dispute for adjudication to the Tribunal.

It is further pleaded by the union that even though the Certified Standing Orders of WCL had already come into force w.e.f. 23-1-1993, charge sheet was submitted against the workman on 2-5-1993 under the model standing orders and therefore, the charge sheet itself is illegal and copy of the complaint received by the disciplinary authority against the workman was not supplied to the workman, so the workman was denied reasonable opportunity and on that ground also, the charge sheet is illegal and bad in law

and the charges leveled against the workman are vague and not specific and the workman had been charge sheeted on false allegations, which is clear from the evidence of Shri S.M. Bobde, the attendance clerk and no charge sheet was submitted against the real culprit and the enquiry was not conducted in fairness, keeping in view the principles of natural justice, therefore the enquiry is bad in law and relevant documents were not supplied to the workman before the enquiry or during the course of the enquiry and the list of witnesses was also not supplied to the workman and thereby, the enquiry officer failed to offer reasonable opportunity to the workman and at the time of imposing the punishment, the past clean and unblemished service record of the workman was not taken into consideration and the findings of the enquiry officer are perverse and the punishment of dismissal of the workman from services is harsh, unfair, unjustified and bad in law.

The union has prayed for the reinstatement of the workman in services with continuity in service and full back wages.

3. The party no. 1 in its written statement has pleaded inter-alia that the workman was posted at Neeljay no. II open caste mine as Gr.I Clerk before being dismissed from services and he was the in-charge of the attendance section and his nature of duty was such that a very high degree of integrity and honesty was required from him, but it was alleged that one Shri J.V. Chalam, Shovel Operator was on leave without pay from 17-4-1993 to 27-4-1993 and the workman unauthorisedly and without permission of the competent authority scored out the attendance of Shri Chalam in the attendance register of those days and by over writing marked Shri Chalam present on duty and he initialed and signed the said entries and the act of the workman amounted to dishonesty in connection with the employers' property and business and as such, the workman was charge sheeted and placed under suspension and the charges were detailed in the charge sheet and the workman submitted his explanation to the charge sheet by denying the charges and as after examination of his explanation, the same was found not to be satisfactory, it was decided to conduct a departmental enquiry against him and accordingly Shri D.K. Chandok was appointed as the enquiry officer and the workman fully participated in the enquiry along with his co-worker and during the course of the enquiry, witnesses for the management were examined and documents were produced presence of the workman and his co-worker and the workman was allowed to cross-examine the witnesses and the workman examined himself in his defence and he was cross-examined by the management representative and the enquiry officer concluded the enquiry with the consent of both the parties and the enquiry officer submitted his report to the Manager, Neeljay OCM-II holding the charges to have been proved against the workman and while writing the report, the enquiry officer made a detailed analysis of the evidence

adduced before him by the parties and arrived at a rational, logical and objective finding and he did not base his findings on any extraneous material or consideration and the copy of the enquiry report was supplied to the workman vide letter dated 28-6-1994, for making representation against the same, if any, but no representation was made by him and the manager, Neeljay OCM-II after being satisfied that the charges have been proved against the workman recommended for dismissal of the workman from services and after obtaining due approval of the competent authority, the workman was dismissed by the sub area Manager-cum-Deputy General Manager vide order dated 8-10-1994 making the dismissal effective from 11-10-1994 and the departmental enquiry held against the workman was just, fair and proper and in accordance with the principles of natural justice. It is further pleaded by the party no. 1 that no appeal was filed by the workman before the appellate authority and as the period of filing of appeal was over long back and the union had no locus standi of filing any appeal under the rules against the dismissal of an employee, the management did not consider it necessary or desirable to reply to the union's letter dated 10/11th January, 1997 and the directive to follow the Certified Standing Orders of WCL were issued only on 15-9-1993 and therefore till 15-9-1993, there was a transition period, during which, model standing orders had to be followed in cases of disciplinary action and the same could not have been kept in abeyance and as such, action was taken against the workman under the model standing orders and action by the management was taken on oral complaint in this case and the manager did not think it proper to disclose the name of the person, who had given the verbal confidential report to him and therefore the charge sheet cannot be said to be illegal and charges leveled against the workman were not vague and the workman did not raise any objection in his explanation that due to vagueness in the charge sheet, he was not able to understand and answer the same and Shri Bobde in his evidence in the enquiry had clearly stated that the cutting and overwriting was done by the workman and therefore, he asked the workman to put his initials and signature, which the workman did and the workman was not charge sheeted on false allegations and there was no question of any ill motive behind its action and as there was no evidence of involvement of Shri Ganjam, therefore the question of issuing charge sheet against him did not arise and as the workman did not demand any document the question of supplying the documents did not arise and the workman went through the documents filed in the enquiry by the management and signed the same in token of having seen the documents and as such, he did not suffer any prejudice in his defence and there is no provision of supplying the copies of the day to day proceedings of the enquiry and the punishment imposed against the workman is just and proper and the workman is not entitled for any relief.

4. As this is a case of dismissal of the workman from services, after holding a departmental enquiry, the question the validity of the departmental enquiry was taken up for consideration as a preliminary issue and vide order dated 18-12-2006, it was held that the enquiry was legal and proper and in accordance with the principles of natural justice.

It is necessary to mention here that while deciding the preliminary issue, the Tribunal considered about the submission of the charge sheet against the workman under the model standing orders and it was held that no wrong was committed in conducting the enquiry as per model standing orders.

5. At the time of argument, it was submitted by the union representative that the enquiry officer in his report did not explain the reasons and circumstances for which, the Mine Manager was not examined in the departmental enquiry and the reasons and circumstances for not supplying the documents as well as the list of witnesses and therefore, the findings of the enquiry officer are defective and are perverse and the same are not based upon reasonable conclusions and submission of charge sheet against the workman alone amounts to victimization and as such, the findings of the enquiry officer are perverse. It was further submitted by the union representative that the workman was appointed on 16-4-1975 as a general mazdoor, but due to his efficient and loyal services for 18 years, he was selected as Clerk Gr. III and promoted as Clerk Gr. II and then to Clerk Gr. I and the alleged proved misconduct against the workman was first in his service record and as such, the punishment of dismissal from services imposed upon him is very harsh, highly excessive, disproportionate, bias and colourful exercise of powers by the management, as the management did not take any action against Shri J.V. Chalam, Shovel Operator and Shri Bobde, the clerk, who prepared the statement of summary of attendance of the workman for the month of April, 1993. It was also submitted by the union representative that the appellate authority i.e. the Dy. General Manager-Cum-Agent-Cum-Chief Mining Engineer, Neeljay mine passed the dismissal order and though in the dismissal order, it was mentioned that approval of the competent authority was obtained, the copy of the approval order was not supplied to the workman and as such, the order of punishment is bad in law.

6. On the other hand, it was submitted by the management representative that the Dy. General Manager-cum-Agent, who passed the order of punishment was not the appellate authority and the order of punishment was passed by the Agent of the mine in view of clause 19 of the Model Standing Order and while conveying the approval of the Chief General Manager, the Dy. General Manager and agent was specifically advised to take necessary action at his end and as such, the order of punishment was not

passed by the appellate authority and there is no provision to supply copy of approval allowed by the competent authority and as such, there was question of supply of a copy of the same to the workman.

It was further submitted that the past record of the workman was taken into consideration while imposing the punishment, which is clear from the document, annexure-B and the misconduct i.e. fraud and dishonesty committed by the workman was very serious in nature and such misconduct was duly proved against him in a properly held departmental enquiry and the findings of the enquiry officer are based on the evidence produced in the enquiry and the same are not perverse and the punishment imposed against the workman is not shockingly disproportionate to the charges and therefore, there is no scope to interfere with the punishment.

In support of such submissions, reliance was placed by the party no. 1 on the decisions reported in 1996 LAB.L.C. 462 (SC) (B.C. Chaturvedi Vs. Union of India), 2003 LAB.L.C. (SC) (P.W.D. Karmachari Sangh Vs. State of Rajasthan) and 2005 LAB.L.C. 854 (S.C.) (Bharat Forge Co. Ltd. Vs. Uttam Manohar).

7. Before delving in to the merit of the matter, I think it proper to mention about the principles enunciated by the Hon'ble Apex Court in the above decisions. It is clear from the principles enunciated by the Hon'ble Apex Court that Court or Tribunal cannot interfere with the discretion exercised by the competent authority in imposition of punishment, unless the same suffers from illegality or procedural irregularity of material nature or punishment is shockingly disproportionate and the Tribunal has no jurisdiction to sit over the findings reached by the enquiry authority in a disciplinary proceeding as the appellate authority.

So keeping in view, the principles enunciated by the Hon'ble Apex Court in the decisions mentioned above, now, the present case at hand is to be considered:

8. The first contention raised by the union representative is that the order of punishment of dismissal from services of the workman was passed by the Sub Area Manager, Neeljay Sub Area on 8-10-1994, even though, the charge sheet was issued by the Mines Manager, Neeljay II OC Mine on 2-5-1993 and according to the Certified Standing Orders, if the Manager of a mine is the Disciplinary Authority, then, the Sub Area Manager is the dismissal approving authority and the Chief General Manager is the notified Appellate Authority and the Appellate Authority has accorded approval of imposition of the punishment and as such, the action and inaction of the management in dismissing the workman from service amount to colourful exercise of powers and more so, when the management has not taken any disciplinary action against the other workmen, Shri Chalam and Shri Bobde and therefore, the

punishment is illegal and unjustified. In support of such contention, reliance has been placed by union representative on the decision of Hon'ble Chhattisgarh High Court reported in 2009 LAB.L.C. (NOC) 829 (J.Prasad Vs. Board of Directors of the Hindustan Steel Work Construction Ltd., Calcutta). In the said decision, the Hon'ble Court have been pleaded to hold that, "Constitution of India, Article 311—Dismissal from service—Order not passed by Disciplinary Authority but by Appellate Authority—Thus, delinquent is deprived of his right to Appeal—Order of Dismissal is illegal".

With respect, I am of the view that the above decision has no application in the present case, on the own showing of the workman, as because, according to the submission made on the behalf of the workman, the Chief General Manager is the notified Appellate Authority and the Appellate Authority has not passed the order of dismissal. Admittedly, there are provisions in the Standing Orders of WCL for taking approval of the competent Authority when an order of dismissal, discharge and removal from service of workman is passed and when the Superintendent (Mines)/Manager is the dismissing/discharging/removing authority, then the Sub Area Manager of the respective Sub Area is the approval giving authority.

In this case, the charge sheet was issued by the Mines Manager and after submission of the enquiry report, the Mines Manager recommended to impose the punishment of dismissal against the workman and submitted to the Sub Area Manager for getting approval and the Sub Area Manager instead of giving approval himself obtained the approval of the Chief General Manager and after obtaining approval, issued the order of dismissal against the workman and the issuance of the dismissal order by the Sub Area Manager can be held to be irregular but cannot be termed as illegal, so as to hold the order as bad in law. Hence, there is no force in the contention raised by the union representative.

9. So far the submission regarding non-taking of action against Shri Chalam and Shri Bobde is concerned, it is found from the materials on record and pleadings of the parties that no action was taken against Shri Chalam and Bobde, as their involvement was not found in commission of the misconduct. As such, there is no force in the contention raised by the union representative that the workman was victimized and the party no. 1 imposed the punishment in colourful exercise of its right. There is also no provision for supply of the copy of the sanction order of the competent authority regarding imposition of the punishment to the workman and for that it cannot be said that the order is perverse.

10. Perused the record. Mr. Bobde has categorically stated that the workman tampered the attendance register in respect of the attendance of Shri Chalam, who was absent from 17-4-1993 to 27-4-1993 by overwriting the same and

initialed and signed the same and he made the totaling. Nowhere in his evidence, Shri Bobde has stated that he himself made the overwriting, as claimed by the workman in the statement of claim or by the union representative in his argument.

11. Perused the record. Taking into consideration the pleading of the parties, the documents of the departmental proceedings, the enquiry report and the written notes of the arguments, it is found that the charges levelled against the workman were not vague and the charges were mentioned in detail and the workman had never demanded copy of any document and there is also nothing on record to show that due to non-supply of the copy of documents and the list of witnesses the workman was prejudiced in any way.

On perusal of the enquiry report, it is found that the findings of the enquiry officer are based on materials adduced before him in the departmental enquiry and he has analyzed the evidence in a rational manner and has assigned reasonable and cogent reasons in support of the findings. It is also found from the documents produced by the party no. 1 that at the time of imposing the punishment, the past service records of the workman were taken into consideration by the authority. It is found from the materials on record that the findings of the enquiry officer are not perverse.

12. So far the punishment is concerned, it is found that charges of very serious misconduct were levelled against the workman and such charges have been proved against him in a properly conducted departmental enquiry. Applying the principles enunciated by the Hon'ble Apex Court in the decisions as mentioned above, it is found that the punishment imposed against the workman is not at all disproportionate to the act of his misconduct and the same is neither harsh nor shockingly disproportionate. Hence, there is no reason to interfere with the punishment. Hence, it is ordered:

ORDER

The action of the management of the Neeljay Sub Area of WCL Ltd., Neeljay Post Bellora, Tah Wani, Distt. Yavatmal (Mah) in dismissing Shri Pandurang Madhav Chandankar, Clerk Grade-I from services w.e.f. 11-10-1994 is legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2916.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या

19/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2011 को प्राप्त हुआ था।

[सं. एल-22011/8/2009-आईआर (सी-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2916.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workmen, which was received by the Central Government on 21-9-2011.

[No. L-22011/8/2009-IR (C-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : - Shri Ved Prakash Gaur, Presiding Officer

Dated the 2nd day of August, 2011

Industrial Dispute No. 19/2009

Between:

Sri T. Nagi Reddy,
S/o Veera Reddy,
Subbarayudu Street,
Tallamudunurupadu,
Via Tadepalligudem, W.G. Distt.

... Petitioner

AND

1. The Senior Regional Manager,
Food Corporation of India,
Regional Office, HACA Bhawan,
Hyderabad-500 004.
2. The District Manager,
Food Corporation of India,
District Office, Tadepalligudem,
West Godavari district.

... Respondents

APPEARANCES :

- | | |
|--------------------|---|
| For the Petitioner | : M/s. K. Ajay Kumar, Sudha & M. Govind, Advocates |
| For the Respondent | : M/s. B.G. Ravindra Reddy & Y. Ranjeeth Reddy, Advocates |

AWARD

The Government of India, Ministry of Labour by its order No. L-22011/8/2009-IR(CM-II) dated 13-4-2009 referred the following dispute between the management of Food Corporation of India and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The term of reference is,

SCHEDULE

“Whether the action of the management of FCI, Tadepalligudem in terminating the services of Shri T. Nagi Reddy w.e.f. 9-12-1998 is legal and justified? To what relief is the workman concerned entitled for?”

The reference is numbered in this tribunal as I.D. 19/2009 and notices were issued to the concerned parties.

2. Petitioner filed claim statement wherein he has stated that he has worked in Food Corporation of India as head loader since 1982, EPF subscriptions were also deducted from his wages. That he could not attend duty due to ill health for one year after 1999 but after recovery when he approached the Respondent authorities he was refused to resume duties. Hence, he prays this Tribunal for a direction to the Respondent management for his reinstatement.

3. Respondents filed counter statement stating therein that the Petitioner was inducted into direct payment system on no work no pay basis and he joined the employment on 17-12-1997. It is submitted that Petitioner was absent w.e.f. 8-12-1998 and he never turned up for employment. The District Organiser and the Central Committee member of the Food Corporation of India workers union by his later dated 16-7-1999 informed the corporation that the Petitioner has left to Gulf country for better employment and insisted that all the vacancies that had origin due to the absence of such workers, should be filled up by the workers who are next in the seniority. Accordingly, vide office order dated 8-10-1999 appointment of the workers who failed to join duty were cancelled. It is a case of abandonment of employment, hence, the industrial dispute is liable to be dismissed.

4. The case is fixed for evidence of parties. Both parties called absent and Petitioner was absent for previous dates also. In absence of parties their evidence is closed and in absence of any evidence the case is closed as such, Nil Award is passed accordingly.

Award passed accordingly. Transmitted.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her, corrected by me on this the 2nd day of August, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner

NIL

Witnesses examined for
the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2917.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 174/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2011 को प्राप्त हुआ था।

[सं. एल-22012/146/1997-आईआर (सी-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2917.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 174/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 21-9-2011.

[No. L-22012/146/1997-IR (C-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/ 174/2000

Date : 14-09-2011

Party No. 1 : The Sub Area Manager, M/s. WCLtd.,
New Majri Underground Sub Area,
PO Shivajinagar, Distt. Chandrapur.

Versus

Party No. 2 : The General Secretary,
Koyla Shramik Sabha (HMS),
Branch Majri, Ward No. 20,
PO & Tehsil Wani,
Distt. Yavatmal.

AWARD

Dated: 14th September, 2011

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Ltd. and their Union Koyla Shramik Sabha (HMS) to the Central Government Industrial Tribunal, Bombay for adjudication, as per letter No L-22012/146/97-IR(C-II) dated 30-7-1998, with the following schedule:—

"Whether the action of the management of Sub Area Mnager, M/s WCL, New Majri U/G Sub Area, PO Shivajinagar, Distt. Chandrapur in not regularizing the female workmen namely Smt. Shobabai, Smt. Shantabai, Smt. Laxmibai and, Smt. Anjanabai, (Mud Pellet Maker) and not paying wages as per the National Coal wage are legal, proper and justified? If not, to what relief the female workmen are entitled and from which date? What other directions are necessary in the matter?"

Subsequently, the reference was transferred to this Tribunal for disposal in accordance with law.

2. On receipt of the reference, parties were noticed to file their respective statement of claim and written statement, in response to which, the union, Koyla Shramik Sabha (HMS), ("the union" in short) filed a joint statement of claim on behalf of all the four female claimants ("the claimants" in short) and the management of the WCL ("the Party No. 1" in short) filed the written statement.

The case of the claimants as projected by the union in the statement of claim is that the claimants were working for the Party No. 1 as mud pellet supplier since 1989 and they are also working as such for the Party No. 1 and they were being paid Rs. 15 only for 1000 pellets and the workmen after performing more than eight hours of duty, used to prepare 1500 mud pellets per day and thus getting Rs. 22 per day as remuneration and the Party No. 1 instead of making payment as per the National Coal Wages Agreement, only paying Rs. 15 for one thousand pellets and as such, the union took up the matter for conciliation before the A.L.C (C), Chandrapur and due to the failure of the conciliation, failure report was submitted to the Government and the Central Government referred the dispute for adjudication to the Tribunal and before the Conciliation Officer, the Party No. 1 contended that the claimants were engaged on contract basis and turned down their claim and the process of mud pellet making is a continuous process, without any stoppage and the process is not a seasonal one and as per the provisions of Contract Labour (Abolition) Act, 1970, the claimants cannot be construed as contractors or workmen of the contractor

and the management is also prohibited to employ contractors and as such, the claimants are liable to be treated as workmen of Party No. 1 since 1989 and mud pellets are prepared according to the standard fixed by the Party No. 1 and there was supervision over the work of the claimants and as such, there was master and servant relationship between the parties, hence the claimants are to be treated as workmen of the Party No. 1 and they are entitled to get daily wages as per the wages fixed by the National Wage Board and to get difference of arrears of wages since 1989 up till now and as per the different provisions of Labour Laws, Party No. 1 is precluded from continuing the claimants on daily wages for such a long period and they are entitled to be regularized. The union has prayed to declare the claimants as workmen of the Party No. 1, to regularize them in service and for payment of difference of arrears of wages as fixed by the National Coal Wages Board.

3. The Party No. 1 in its written statement has pleaded inter-alia that it is a subsidiary of Coal India Ltd. and for recruitment of employees, it has a uniform recruitment policy and for recruitment in the Wage Board category, vacancies are notified with the local employment exchange and candidates sponsored by the local employment exchange are interviewed and selection is made out of the successful candidates by the committee and successful candidates are appointed by issuing appointment orders and after medical examination, the candidates are sent for vocational training and the employees are issued with Coal Card, Medical Card, and Identity Card etc. and their service records are kept and the claimants were not appointed by it and they were never engaged for any work in the Mine and the engagement of the claimants was neither regular nor in conformity with the rules and regulations governing such engagement and they were not the employees of the Party No. 1 and there was no employer and employee relationship between the parties and as such, their claim for regular employment is not maintainable.

It is also pleaded by Party No. 1 that the Government has made the reference assuming certain facts, which did not exist and the Government has referred the case of the claimants mentioning them as workmen, even though there was no employer and employee relationship between the parties and the reference was made mechanically without application of mind and without considering the relevant materials placed on record and for that the reference is illegal and bad in the eyes of law and the claimants were awarded a contract for supply of mud pellets to it, for use in the Mines and the rate for supply of the pellets was also negotiated and settled and the claimants agreed to supply pellets at the rate of Rs. 15 per thousand pellets and they used to supply the pellets as per its requirement and they were being paid the cost of the pellets as per the contract and as such, they cannot be said to be workmen, as per

the provisions of the Act and there was no supervision or control over the claimants and they were making the pellets according to their own will, system and convenience and there is no prohibition under the Contract Labour Abolition Act, 1970, for purchase of mud pellets from the contractors and the claimants cannot be treated as workmen and the mud pellets were made according to the standard required by it or otherwise the same are of no use and there is no question of purchasing of the same and the claimants cannot be treated as workmen and the claimants are not entitled to any relief.

4. In support of their respective claims, both the parties have adduced oral evidence, besides relying on documentary evidence. On behalf of the claimants, all the four claimants and Jai Narayan, the General Secretary of the union have been examined as witnesses. On behalf of the Party No.1, D.C. Gupta, the Personnel Manager and Dada Zitru Jivtode, an employee of the Party No.1 have been examined as witnesses.

5. In their examination-in-chief, the claimants and the Secretary of the union have reiterated the facts mentioned in the statement of claim.

6. The Secretary of the union, Jai Narayan in his cross-examination has stated that payment was being made to the claimants on the basis of the number of the pellets made by them and a sum of Rs. 15 was being paid for making 1000 pellets.

7. Santabai in her cross-examination has stated that it is true to say that payment was being made to them on the basis of the number of pellets prepared by them. She has also stated that before her engagement, there was no medical examination and no written appointment order was given to her and neither coal was given to her for cooking nor she was given the facility of medical treatment. She has also stated that they were making the pellets near the mine and they use to go to make pellets and to return to their houses according to their convenience.

8. Laxmibai in her cross-examination has stated that the more the pellets they were making, the more money they were getting and on the day when they were not making the pellets, they were not getting any thing and no appointment letter was given to her and she was also not medically examined and no medical card or identity card was issued to her.

9. Anjanabai in her cross-examination has stated that no appointment order was issued to her and she was not medically examined and she was not getting the facility of getting coal and medical treatment in the hospitals of WCL and they were going to prepare the pellets according to their convenience.

10. Shobhabai, in her cross-examination has stated that it is true to say that she was not appointed by WCL

and she was not getting the facility of coal and medical treatment and they were given the contract for preparing mud pellets.

11. The two witnesses examined on behalf of Party No.1 in their evidence have reiterated the facts mentioned in the written statement. In his cross-examination, witness No. 1, D.C. Gupta has stated that they do not pay any wages to the claimants and paying them Rs. 30 per thousand pellets from 2001, which was Rs. 15 prior to the same and the number of pellets to be prepared by a labour has not been fixed. This witness has denied the suggestion given to him that the claimants are working under the supervision of WCL and there is relationship of employer and employee and they are paying the wages of category no. 1 to the claimants.

12. The witness no. 2, Dada. Z. Jivtode for the Party No. 1, in his cross-examination has stated that the claimants make mud pellets as per supply orders and management pays them wages for the same.

13. At the time of argument, it was submitted by the learned advocate for the claimants that the claimants are working for more than 11 years as mud pellet workers and they had completed 240 days of work with Party No.1, but Party No.1 did not regularize their services and not paying them wages as fixed by National Coal Wages Board and exploiting them, which is an unfair labour practice and as the claimants are engaged directly by the Party No.1, therefore, they are the employees of Party No.1 and there is clear cut evidence of employer and employee relationship between the parties and in view of section 10 of Contract Labour (Regulation and Abolition) Act, 1970, the claimants cannot be continued as contract workers for years together and mud pellets are required regularly or shot firing purpose in mining by Party No.1 and as such, they cannot employ the workers on contract basis for supply of mud pellets and as the female workers are working for more than 19 years with the Party No. 1, they are employees of Party No.1 and they are entitled for regularization in services and benefit of permanent employees.

14. On the other hand, it was submitted by the learned advocate for the Party No.1 that the claimants were not appointed by the management and they were not engaged in the Mine and they are not employees of the management and there is no employer and employee relationship between the parties and the claimants were awarded contracts to supply of mud pellets and they are contractors and not the employees and there was no supervision or control of the management over them and they have been paid cost of the pellets as per the quantum of supply of pellets and work of making mud pellets on contract basis is not prohibited under the provision of Contract Labour Abolition Act, 1970 and from the evidence adduced on behalf of the claimants, it is clear that they were never employed by the management but they were

supplier of mud pellets and the claimants are not entitled to any relief. In support of such contentions, reliance has been placed on the decisions reported in 2002(3) SCC-25(Range Forest Officer Vs. S.T. Handimani), Secretary, State of Karnatak & others Vs. Umadevi & others, 2005(4) SCC-209(Binod Kumar Gupta & others Vs. Ram Ashray Mahato & others), 1997(4) LLN-85(Ahmedabad Municipal Corporation Vs. Virendra Kumar Jayantibhai Patel), 1998(2) LLN-47 (Arun Kumar Rout Vs. State of Bihar) and 1992 LAB. I.C. 2055 (Director, Institute of Management Development, U.P. Vs. Smt. Puspa Srivastava).

15. Perused the record including the pleadings of the parties; evidence adduced by the parties and the written notes of argument. In the statement of claim itself, the claimants have mentioned that they were working as mud pellets supplier since 1989 and still they are working as such for WCL. In the prayer, it is prayed that the claimants be declared as workman of WCL. Such pleadings and prayer clearly show that the claimants are not workmen of Party No. 1. Therefore the dispute raised by the union on behalf of the claimants cannot be said to be an industrial dispute. Hence, the reference made by the Central Government holding the claimants as workmen and the dispute as an industrial dispute is not proper.

The claimant, Shobhabai has admitted that she was not appointed by WCL and she was not getting the facility of coal and medical treatment and they were given the contract for preparing mud pellets.

Claimant, Santabai has admitted that payment was being made to them on the basis of the number of pellets prepared by them and no written appointment order was given to her and they were making the pellets near the mine and they use go to make pellets and to return to their houses according to their convenience.

Claimant, Laxmibai has stated that the more pellets they were making, the more money they were getting and the day when they were not making the pellets, they were not getting any thing and no appointment order was given to her.

Anjanabai has also admitted the same thing and has also stated that they were going to make the pellets according to their convenience.

Such admissions of the claimants and from the evidence of the two witnesses examined on behalf of the Party No.1 and the documentary evidence, it is clear that the claimants were not engaged by the Party No.1 as their employees but they were given contract for supply of mud pellets after making the same and there was never any relationship of employer and employee between the parties. As the claimants were not engaged as contract labours but given contract to supply pellets the provision of section 10 of the Contract Labour (Regulation & Abolition) Act, 1970 is not attracted.

In view of the materials on record and the discussion made above it is found that the claimants are not entitled for any relief. Hence, it is ordered:—

ORDER

The action of the management of Sub Area Manager, M/s. WCL, New Majri U/G Sub Area, PO Shivajinagar, Distt. Chandrapur in not regularizing the female workmen namely Smt. Shobabai, Smt. Shantabai, Smt. Laxmibai and Smt. Anjanabai, (Mud Pellet Maker) and not paying wages as per the National Coal Wage are legal, proper and justified. The workmen are not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2918.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 55/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2011 को प्राप्त हुआ था।

[सं. एल-22012/348/1989-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2918.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL, and their workman, which was received by the Central Government on 21-9-2011.

[No. L-22012/348/1989-IR (C-II)]

D. S. S. SRINIVASARAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/ 55/2003

Date: 14-09-2011

Party No.1 : The Sub Area Manager,
Hindustan Lalpeth Colliery,
WCL, PO Lalpeth,
Distt. Chandrapur.

Versus

Party No. 2 : The General Secretary,
Lal Bawata Koyla Kamgar Union,
Near Noorani Masjid,
Bhiwapur Peth Ward,
Post Babupeth,
Distt. Chandrapur.

AWARD

Dated : 14th September, 2011

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of Western Coalfields Ltd. and the Union Lal Bawata Kamgar Union to the Central Government Industrial Tribunal, Jabalpur for adjudication, as per letter No. L-22012/348/89-IR(Coal-II) dated 25-4-90/02-5-90, with the following schedule:—

"Whether Smt. Mallubai wife of Late Sri Ailayya Mallayya Samaayya, Loader who expired on 2-12-87 is entitled to get the employment as a dependent from the Management of Sub Area Manager, M/s WCL, (Hindustan Lalpeth Colliery), PO-Lalpeth, Distt. Chandrapur (MS)? If yes, to what relief Smt. Mallubai is entitled?"

Subsequently, the reference was transferred to this Tribunal for adjudication in accordance with law.

2. On receipt of the notice of the reference, the union, Lal Bawata Kamgar Union ("the union" in short) filed the statement of claim on behalf of the applicant, Smt. Mallubai ("the applicant" in short) and the management of WCL ("the Party No. 1" in short) filed the written statement.

The case of the applicant as projected by the union in the statement of claim is that Ailayya Mallayya Samayya, the deceased husband of the applicant was working as a loader since 1966 in Lalpeth Colliery No.1 and in the course of performing his duty, as he fell ill, from 7-6-87, he was admitted in Area Hospital and Shri P.R. Reddy, an employee of the said colliery and also the Secretary of INTUC Union came to meet Mallayya, so Mallayya told him about the misery of his family members and requested him to arrange some advance from the colliery for the maintenance of his family members, in presence of his wife and two other workmen and Shri Reddy assuring to give advance, took the L.T.Is of Mallayya on some blank paper and left the hospital and while Mallayya was still in the hospital, letter No. 133 dated 28/30-6-87 issued by Party No.1 was received by him, in which, it was intimated that his resignation dated 7-6-87 was accepted and it is clear from the said facts that fraud was committed by the Party No.1 with the connivance of Shri P.K. Reddy against the illiterate workman, Mallayya and when Mallayya had intimated about his illness, it was quite essential for the Party No.1 to make an inquiry in the matter and after receipt of the letter dated 28/30-6-87, Mallayya became mentally disturbed and was treated at Area Hospital, Chandrapur and he was admitted in the Hospital on 12-11-87 and discharged on 18-11-87, with the advice to go to Medical College and hospital, Nagpur and there are ten members

in the family of Mallayya and there was illegal acceptance of the resignation of Mallayya and soon after such acceptance, gratuity was also paid to him and as the workman was ill, he did not file any appeal and Mallayya expired on 2-12-87 and after his death, his widow approached the WCL authorities time and again begging for giving her appointment but the authorities did not pay any heed.

Prayer has been made to declare the acceptance of the resignation of deceased Mallayya as illegal and to direct the Party No.1 to give compassionate appointment to his widow, Smt. Mallubai.

3. In the written statement, Party No.1 has pleaded inter-alia that the reference has been made at the instance of the union and the said union does not have any membership of following in the colliery and therefore the dispute, which has been raised by the minority union cannot be adjudicated and apart from the same, Smt. Mallubai was never an employee of coal mines and that being so, she could not be a member of the union and the union cannot take up the case of person, who is not its member and the reference is liable to be rejected on that ground.

It is further pleaded by the Party No.1 that late Ailayya Mallayya Samayya was working as Loader in Lalpeth Mine No. 1, since 8-2-66 and on 8-6-87, he submitted his resignation duly witnessed by Shri P.K. Reddy and the resignation letter received from Mallayya was forwarded to the Sub Area Manager and after acceptance of the resignation, the management vide their letter No. WCL/HLC/MGR/PER/933 dated 28/30-6-87 communicated the workman, Mallayya about the acceptance of his resignation w.e.f. 7-6-87 and he was advised to collect all his dues and after acceptance of the resignation, the workman submitted an application for payment of his gratuity and the gratuity amount of Rs. 17,461.71 was released and paid to him by cheque no. 7812 dated 26-8-87 and the workman also submitted his claim for payment of CMPF amount and an amount of Rs. 31,313 was paid to him toward, the same and he had never made any complaint either for withdrawal of the resignation or challenging the same and had the resignation letter been accepted under duress or pressure, the workman would have withdrawn the same or at least refused to accept the amount which were paid to him and the fact that the workman after acceptance of his resignation did not raise any complaint, objecting to the resignation and accepting all the monetary benefits is the proof of the fact that he gave the resignation of his own will, without any duress or pressure from any quarter and after the death of the workman in December, 1987, no claim was put forward and it was only in May, 1989, the union contended that the resignation of the workman had been given under pressure and obtained by fraud and the same should not have been accepted and claim for treating the

workman to be in duty and to employ his wife and the claim of the union cannot be sustained, because on the day of the death of the workman, he was neither in employment of the company nor there was anything to show that the resignation was not submitted by him willingly and the applicant is not entitled for appointment as because, the workman, who died in December, 1987 was not in employment at the time of his death and the benefits of appointment to the dependent as provided for in N.C.W.A. cannot be extended to her.

It is further averred by the Party No.1 that there is no industrial dispute, as the workman had never raised any dispute during his life time challenging his resignation and the applicant had also not raised any dispute with the management and as such, no relief can be granted to the applicant.

4. In support of the claim, the union examined three witnesses, besides placing reliance on documentary evidence. The Party No.1 did not adduce any oral evidence. However, reliance was placed on documents regarding the resignation of the workman and payment of gratuity and CMPF.

5. The three witnesses, Smt. Mallubai, the widow of the deceased workman, Mallayya and two other employees of WCL, namely, Ashada Gaddi and Ranika Buchayya Kodayya, examined on behalf of the union have reiterated the facts mentioned in the statement of claim.

6. Before delving in to the merit of the matter, I think it proper to mention about the undisputed facts of the case. It is not disputed that Mallayya, the husband of Smt. Mallubai was working with Party No.1 and his resignation was accepted by Party No.1 w.e.f. 7-6-87 and gratuity and all other monetary benefits for which, the workman was entitled to were given to him. It is also not disputed that there is provision in N.C.W.A. for giving compassionate appointment to one of the dependents of a workman in case of his death while he was in employment of WCL.

In this case, the claim of the union is that while the workman was in the hospital, Shri P.K. Reddy took his L.T.I. on blank papers with the assurance to arrange some money for him from the company, but used the papers as resignation of the workman with the connivance of the Party No. 1. On the other hand, Party No.1 has pleaded that the workman gave his resignation voluntarily and also applied for payment of gratuity and CMPF and received the amount and he had never raised any objection about the resignation and as the workman was not in employment on the date of his death, the provisions of compassionate appointment as per N.C.W.A. cannot be extended to Smt. Mallubai.

7. Though the three witnesses have stated in their examination-in-chief, which is on affidavit that Shri Reddy

took the LTIs of the workman, Mallayya on blank papers and used the same as the resignation of the workman, no reliance can be pleaded on their evidence, as their evidence is inconsistent and discrepant and not convincing. Moreover, though it is alleged that the workman was admitted in the Area hospital on 7-6-87, not a scrap of paper has been filed in respect of the same. In the statement of claim, it has been mentioned that the workman received the letter given by the Party No.1 regarding the acceptance of his resignation. So, if the workman had actually not given any resignation, then he should have raised objection against the acceptance of the resignation and should have taken steps for withdrawal of his resignation. It is also found from the documents filed by the Party No.1 that the workman applied for payment of gratuity and CMPF and also received the amounts released in his favour. The workman till his death did not raise any objection or file any complaint making allegation that in fact he had not submitted any resignation. The applicant also did not raise any objection not only during the life time of her husband but also soon after the death of her husband and the said facts clearly indicate that the workman submitted his resignation on 7-6-87 voluntarily and the Party No.1 rightly accepted the same. As the workman was not in employment of WCL on the date of his death, the applicant is not entitled for appointment as dependent of the deceased workman, Mallayya. Hence, it is ordered.

ORDER

Smt. Mallubai wife of Late Sri Ailayya Mallayya Samaayya, Loader who expired on 2-12-87 is not entitled to get the employment as a dependent from the Management of Sub Area Manager, M/s. WCL, (Hindustan Lalpeth Colliery), PO-Lalpeth, Distt. Chandrapur (MS). The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2011

का.आ. 2919.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बड़ोदा उत्तर प्रदेश ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 73/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2011 को प्राप्त हुआ था।

[सं. एल-12012/21/92-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 21st September, 2011

S.O. 2919.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/1992) of the Central Government Industrial Tribunal-cum-Labour

Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Baroda Uttar Pradesh Gramin Bank and their workmen, received by the Central Government on 20-9-2011.

[No. L-12012/21/92-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE SRI RAM PARKASH, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
KANPUR**

Industrial Dispute No. 73 of 1992

Between :

Sri Kamlesh Kumar Sharma,
Parsurampur,
Jahnaipur Sadar,
Pratapgarh.

And

Baroda Uttar Pradesh Gramin Bank,
Head Office, Rae Bareilly.

AWARD

1. Central Government, MoL, New Delhi vide notification No. L-12012/21/92-IR(B-3) dated 20-5-92 has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Baroda Uttar Pradesh Gramin Bank Head Office Rae Bareilly in terminating the services of Sri Kamlesh Kumar Sharma son of Lal Bahadur Shrama, daily wage workman at Mohanlal Ganj Branch of the bank with effect from 16-8-86 was legal and justified? If not to what relief the workman is entitled to?

3. Brief facts are—

4. It is alleged by the claimant that he was initially appointed by the bank insubordinate cadre at the Garhwara branch of the opposite party on 29-12-81 on daily wages. But the applicant was required to work full time and required to perform all the duties which were assigned to subordinate staff. He was the only employee in the subordinate cadre. Subsequently vide Garhwara Branch letter No. so and so dated 19-2-82 he was relieved from Garhwara Branch and deputed to work at Bhupiamau branch of the bank where he reported for duty on 20-2-82. There the applicant worked up till 6-12-82 as daily wagger when his services were terminated by the bank without assigning any reason with an assurance that he will be given further employment in the bank. Therefore under this assurance he frequently visited the branch. Thus

ultimately he was again employed by the bank at its Dhingwas branch on 23-5-83 as daily wagger where he was required to work for full hours in the category of subordinate staff. He worked there untill 10-7-83, when as per the instructions contained in banks head office letter so and so dated 6-7-83, copy enclosed as annexure-1, he was transferred to Mohanlal Ganj Branch of the bank, where he reported for the duty on 13-7-83. Thus the applicant continuously worked at Mohanlal Ganj Branch of the bank up till 15-8-84. During the course of employment at Garhwara, Bhupiamau, Dhingwas and Mohan Lal Ganj Branch of the bank, he was paid daily wages at the rate of Rs. 07, 08, 09 and Rs. 10 per day respectively. While working at Mohan Lal Ganj Branch of the bank an officer Sri S. J. Singh posted as Manager Accounts at Head Office of the Bank became interested in getting his relative Sri Ram Dayal Singh appointed in subordinate staff cadre. Thus for this reason he was relieved by the manager of Mohan Lal Ganj Branch on 15-8-84 with the advice that he has been transferred to another branch in which stating that the instructions are being issued. Thus he remained under this assurance but he did not get any transfer letter. In his place the manager appointed Sri Ram Dayal Singh a new candidate. His services were terminated without assigning any reason whereas he has put in an uninterrupted period of service more than 240 days in a calendar year. No. notice or retrenchment compensation in lieu of notice was paid to the applicant which was in breach of Section 25F of the Act. He was also not the junior most. Thus his termination is also violative of Section 25 G of the Act. Since a new person had been inducted in the service of the bank in his place, thus the bank has also breached the provisions of Section 25H of the Act. The applicant was belonging to a remote village so he does not know what to do but he went on approaching the bank for his employment. He also gave another application for engaging him as a messenger at the new branch at Avsanganj Branch. The application is Annexure-2. But his request was not considered. Later on he was advised to approach ALC Allahabad and therefore, he raised an industrial dispute. Thus the bank has exploited the claimant by entering into an unfair labour practice. Consequently it has been prayed that the action of the opposite party bank be set aside and he be directed to be reinstated in the service of the bank with full back wages, continuity of service and all other consequential benefits attached with the post.

5. Opposite party has filed their reply vehemently denying the entire allegations of the claimant stating that he was never appointed against any regular and permanent post of messenger after following due recruitment process. He never completed 240 days of work in the bank in any calendar year. He was simply engaged from time to time as per exigency of the work of the bank as a daily rated worker. Therefore under the facts and circumstances of the case

question of breach of the provisions of the Act does not arise. It is also alleged that the bank never retrenched the service of the claimant rather he of his own accord left the job. Therefore, he is not entitled to claim any benefit of the provisions of the Act and his claim is liable to be rejected. Bank has also denied the fact that it ever indulged itself in unfair labour practice in the case of the claimant. Accordingly it is prayed that the claim of the claimant is liable to be rejected out rightly being not having any merit.

6. The claimant has also filed rejoinder but nothing new has been stated therein.

7. Both the parties filed the documentary as well as oral evidence.

8. Claimant has filed annexure along with the claim statement.

9. Opposite has filed the photocopy of the payment vouchers of the last calendar year from Ext.1 to 40. They have also filed a chart of the working days of the claimant showing the period he had worked from 16-8-83 to 15-8-84 which is Ext.M.41.

10. Claimant has produced himself in evidence as W.W.I.

11. Opposite party has produced one Sri Brijesh Pratap Singh Inspecting Officer of the bank as M.W.I.

12. Heard and perused the record.

13. The short question to be decided in this case is whether the claimant has worked continuously for 240 days or more in a calendar year preceding 12 months from the date of his termination of service.

14. It is a fact that the claimant was never appointed on any regular post after following the due process of recruitment on the post of messenger or any subordinate cadre post. As per claimant himself he was engaged as a daily rated casual worker on a payment of Rs. 7 to Rs. 10 per day. Ultimately he has worked at Mohanlalganj Branch of the bank. There is no appointment or termination letter in favour of the claimant. There is a specific statement of MW.I that the claimant had worked only for 212 days in the last calendar year.

15. Witness has also specifically stated that the claimant had left the work of his own accord and after leaving the work he did not turn up. M.W.I has produced documentary evidence that is photocopies of the vouchers which is M.I to M.41. They have also filed a calculation chart regarding the number of working days of the claimant which Ext.M.41 and according to that statement for the period 16-8-83 to 15-8-84 the claimant had simply worked for 212 days only. There is an endorsement also that he left work voluntarily of his own accord with effect from 16-8-84. M.W. I has been cross-examined. Witness has been cross-examined at length but nothing has come out

in his evidence which make his statement unbelievable. Witness has also stated on oath that the claimant of his own accord has left the job

16. I have also examined the statement W.W.I; therefore, there is no cogent evidence from the side of the claimant to prove that he had ever worked for more than 240 days in a calendar year preceding the date of his termination. Therefore the evidence by the opposite party cannot be discarded.

17. Complainant has placed reliance upon a decision (1999) 6 SCC 182 Ajayab Singh Versus Sirhind Cooperative Marketing.

18. He has further placed reliance on the decision 1986 Lab IC 1998 SC workmen of American express International Banking Corporation services management of American Express.

19. I have given my anxious consideration to the law cited by the claimant and find that the facts and circumstances of the cited case are entirely different from the facts and circumstances of the present case. Therefore, the law cited by the claimant is not applicable to the case of the present claimant.

20. I have also examined the pleadings of the workman regarding breach of the provisions of Section 25G and H. Although it was also pleaded by the workman that he was not the junior most and after his termination one Ram Dayal Singh was engaged in his place but there is no evidence either documentary or oral, therefore, it is concluded that the workman has palpably failed on this score also.

21. Considering the overall findings recorded by me above, it is concluded that the claimant is not entitled for any relief as claimed by him and the reference is bound to be decided against him and in favour of opposite party management.

22. Reference is answered accordingly.

RAM PARKASH, Presiding Officer

नई दिल्ली, 22 सितम्बर, 2011

का.आ. 2920.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्कान इन्टरनेशनल लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली के पंचाट (संदर्भ संख्या 219/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2011 को प्राप्त हुआ था।

[सं. एल-41011/01/2001-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 22nd September, 2011

S.O. 2920.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 219/

2011) of the Central Government Industrial Tribunal-cum-Labour Court-1, Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IRCON International Ltd. and their workmen, received by the Central Government on 21-9-2011.

[No. L-41011/01/2001-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. I, KARKARDOOMA COURTS
COMPLEX, DELHI**

I.D. No. 219/2011.

Shri Gopal Singh
S/o Sh. Khem Singh,
H.No. 229/18-D, Mandawali,
Fazalpur, Delhi-11 0092 and others

...Workmen

Versus

The General Manager,
IRCON International Ltd.,
Palika Bhawan, Sector-XIII,
R.K. Puram, New Delhi

...Management

AWARD

Indian Railway Construction Company Ltd. (in short IRCON) was incorporated in the year 1976 under Indian Companies Act, 1956. It is a Government of India enterprise, being run under the aegis and control of the Ministry of Railways, Government of India, New Delhi. The main purpose of flotation of IRCON was for construction of railway tracks, roads, highways, bridges, maintenance of ways, buildings for the Government and other construction activities on commercial basis, in India and abroad. IRCON undertakes projects at various places in the country and foreign countries. It has a few engineers, other professionals and staff for the purpose of its administration. Depending upon volume of work undertaken by it and duration of work, IRCON engages various persons for employment, in its various projects.

2. IRCON undertook work for widening of National Highway No. 2 at Delhi Mathura Road project against Uttar Pradesh/Haryana PWD contract, railway siding work in the establishment of National Thermal Power Corporation at Dadri, railway siding work at IOC Panipat and construction of administrative complex at ICAR Pusa, New Delhi. As per terms of contract for the projects, referred above, construction works for those projects were to be

completed and handed over to respective clients, within the time limit stipulated in respective contracts. For completion of construction work for the aforesaid projects, services of unskilled, semi-skilled and skilled employees were obtained on work charged, adhoc and contract basis. Services of such locally recruited adhoc, work charged and contract employees were made co-terminus with completion and closure of respective project establishments.

3. Sh. Gopal Singh, Jagan Nath, Raghunath Rai, Mohan Shyam, Mukand Lal Sharma, Liak Ram, Teju Lal, Lekh Raj, Mumtyaz Ali, Kishan Lal, K.P. Singh and Dhal Singh were engaged by the IRCON in aforesaid projects on different dates on adhoc, work charged and contract basis. Services of Sh. Kishan Lal were dispensed with on 30-6-98, while services of Sh. Jagan Nath, Raghunath Rai, Mohan Shyam, Liak Ram and Teju Lal were terminated on 5-2-98. Sh. Gopal Singh and Mukand Lal Sharma were made to go on 3-6-98. Sh. Mumtyaz Ali, K.P. Singh and Dhal Singh were also bade farewell on 3-6-98, while Sh. Lekh Raj was given good bye on 31-5-98. Feeling aggrieved by their termination orders, various writ petitions being C.W.P. No. 629/98, 698/98, 3207/98, 3410/98, 3921/98, 4061/98 and 4062/98 were filed before High Court of Delhi, besides others which writ petitions were clubbed together and disposed off vide order dated 10th February, 2000, refraining hands to adjudicate issues raised therein on the count that such disputed issues cannot be adjudicated in writ jurisdiction. Liberty was given to the petitioners to raise industrial dispute. The petitioners took the matter to the Apex Court by way of special leave petitions. The Apex Court disposed off those petitions vide order dated 6-11-2000, announcing therein that if the applicants approach the Central Government, the latter shall make a reference to the Tribunal in the two months of making a written request for the reference. On a request being made in that regard, the appropriate Government made a reference of the dispute to this Tribunal, vide order No. L-41011/1/2001-IR(B-I) New Delhi, dated 6th of June 2001, with following terms:

“Whether the action of the Joint General Manager, IRCON International Limited, Palika Bhawan, Sector-13, R.K. Puram, New Delhi-110066 was within its right in terminating the services of Shri Gopal Singh and eleven other workmen on respective dates as per details shown in the Annexure(I). And whether the concerned workmen could claim to be permanent employees of the IRCON International Ltd.? If not to what benefits and relief the workmen are entitled to?”

4. Claim statement was filed on behalf of all twelve claimants, pleading that they were appointed on different dates and in various capacities, as detailed below:

Sl. No.	Name of the claimant	Post on which appointed	Date of joining
1.	Gopal Singh	Junior Assistant	08-11-88
2.	Mukund Lal Sharma	Driver	15-09-89
3.	Mumtyaz Ali	Messenger	29-01-90
4.	K.P. Singh	Supervisor/Junior Engineer	16-02-85
5.	Dhal Singh	Junior Engineer	23-10-80
6.	Raghunath Rai	Driver	23-12-88
7.	Jagan Nath	Driver	10-11-88
8.	Teju Lal	Messenger/Khalasi	13-03-89
9.	Mohan Shyam	Khalasi	01-09-89
10.	Liak Ram	Driver	04-03-89
11.	Lekh Raj	Typist	02-12-88
12.	Kishan Lal	Safaiwala	11-09-89

5. They assert that their jobs were transferable from one place of posting to another, in view of specific stipulations in their appointment letters. IRCON has framed service rules in 1976, besides recruitment rules. Some of the claimants were even promoted to next grade in view of their fitment and suitability. Others were called upon to appear for selection test, which was later on cancelled and juniors to them were promoted under the grab of regularization. That action of IRCON is under challenge before High Court of Delhi by way of writ petition being CWP No. 847/1995. Their services have been terminated by various project authorities on the pretext of closure of the project(s). Their services were not for the project(s), but for the core cadre of IRCON. Unfair labour practice was resorted to by IRCON by way of terminating their services. Gap, created on account of termination of their services, was filled by way of induction of persons on deputation from railways and other public sector undertakings.

6. It was claimed that action of termination of their services was illegal, arbitrary and unfair. Rule "last to come, first to go" was violated by IRCON. Project in charge(s), who issued their termination orders, were not empowered to pass such orders. They were not their appointing authority. Hence their termination orders are null and void. A prayer has been made that they may be reinstated in the employment of IRCON, in permanent capacity with all benefits of continuity in service, such as seniority, increment, promotion, corporation gift and other consequential benefits.

7. Claim was demurred pleading that IRCON undertook projects of widening of National Highway No. 2 at Delhi Mathura Road, railway siding work in the

establishment of NTPC at Dadri, railway siding work at IOC, Panipat and construction of administrative complex at ICAR Pusa, New Delhi. The claimants were engaged for the projects, referred above. On completion of work, projects were handed over to respective clients and work and place of work ceased to exist. As there was no work and services of the claimants were engaged for the project(s), it were dispensed with on payment of due compensation and other statutory benefits. There exists no relationship of employer and employee between the parties.

8. IRCON pleads that on 5-2-98 a notice was published in leading daily news papers, id est, Danik Jagran, Punjab Kesri and Rastriya Sahara notifying to all concerned that Dadri project would be closed from afternoon of 5th February, 1998. It was notified in Danik Jagran, Punjab Kesri and Rastriya Sahara on 3rd June, 1998 that Delhi Mathura Road project would be closed from afternoon of 3rd June, 1998. Notice(s) for closure of the project(s) alongwith names of employee, whose services were disengaged, were affixed on notice board of the project(s). Copies of notice(s) were sent to the appropriate Government and the employment exchange. The claimants were all individually advised in that regard. They were paid compensation in accordance with rules. Since the claimants were employees of project(s), they cannot claim to be employees of IRCON. No right accrued in their favour for regular appointment.

9. The management pleads that details relating to their employment, given by the claimants, are not authentic. Sh. Gopal Singh, Mohan Shyam, Mukand Lal Sharma and Kishan Lal were engaged on contract for specified period and for specified project. Despite the fact that they were given benefits of scale of pay, their services being co-terminus with the project(s) hence dispensed with after giving one month notice pay and compensation. Sh. Teju Lal and Dhal Singh were appointed on daily wage basis. On grant of benefits of scale of pay, they were treated as work charged daily rated employee(s) and their services were dispensed with on closure of project, after payment of compensation and statutory dues. The other claimants were engaged locally on daily wages work charged basis. Their services were also done away on payment of compensation and statutory dues, on closure of the project(s). It has been disputed that scheme for regularization was cancelled, after accommodating juniors to the claimants. Recruitment rules make provision for consideration of adhoc and work charged employees for regularization, subject to passing prescribed test depending on availability of vacancies of respective category. Except Gopal Singh, none was eligible and there was no vacancy in the category of drivers, khalasis and safaiwalas etc. for regularization. It has been denied that the management of IRCON has resorted to unfair labour practice, as claimed in the claim statement. The claim put

forward is liable to be dismissed, being devoid of merits, presents the IRCON.

10. Vide order dated 28-7-2003, case of Sh. K.P. Singh was separated from other claimants on his own request and adjudicated vide award dated 28-7-2003.

11. Claimants have tendered their respective affidavits, as evidence in support of their claim. They were cross-examined by the authorized representative of IRCON. Sh. Parmod Kumar, Manager (HRM), tendered his affidavit as evidence on behalf of the management. He was cross-examined by the authorized representative of the Claimants. No other witness was examined by either of the parties.

12. Written arguments were filed on behalf of the IRCON on 8-7-2010, while claimants filed their written arguments on 31-7-2010.

13. Case was transferred to the Central Government Industrial Tribunal No.2, New Delhi, vide order dated 11-2-2008, passed by the appropriate Government. It was re-transferred to this Tribunal on 6-7-2011, vide order dated 13th March, 2010.

14. Since written arguments of the parties were already there in the record and vide order dated 6th of November, 2000, the Apex Court had commanded to dispose off the matter within six months if possible provided parties co-operate, it was thought expedient to proceed with adjudication of the matter, on consideration of the evidence and written submissions already available on the record. On being given an opportunity, Shri B. K. Prasad, authorised representative of the claimants, opted not to raise any oral submissions. I have gone through the pleadings, evidence adduced by the parties and carefully considered the contents of the written submissions. My findings on issues involved in the controversy are as follows :

15. Kishan Lal swears in his affidavit Ex.WW 1/1 that he joined IRCON as safaiwala on 11th of September, 1989, on regular pay scale of Rs. 196-232. He presents that initially he was posted at New Delhi corporate office. On 30-6-98 his services were arbitrary terminated. Sh. Parmod Kumar unfolds in his affidavit that Kishan Lal was engaged as safaiwala on contract for a period of six months. Initially, he was appointed vide letter dated 11-9-89, which is Ex. MW 1/2. When perused, contents of Ex. MW1/2 make it clear that Kishan Lal was appointed for a period of six months. His term of appointment was extendable at the discretion of IRCON. His appointment was terminable during contract period at any time without any notice and assigning any reason. His term of appointment was extended from time to time and came to an end on 30-6-96, which fact emerges out of Ex. MW1/3. He was further appointed on 1-11-96 up to 30-4-97, purely on contract basis, which fact emerges out of appointment letter Ex. MW1/1. His services were dispensed with in accordance

with stipulation contained in appointment letter Ex. MW 1/1. A sum of Rs.11423 was paid to him for gratuity and leave encashment, vide cheque No. 256798 dated 2-2-2009.

16. As creeps out of Ex. MW1/1, Kishan Lal was appointed for a contractual period of six months; which period was extended from time to time. He was engaged from 1-11-96 to 30-4-97, as detailed in Ex. MW1. He asserts that since he was granted pay in the scale of Rs. 650-905, he was a regular employee. It was claimed on his behalf that he was shown as a contractual employee with a view to evade permanency of his service. Contention revised on his behalf stands dispelled by contents of appointment letter Ex. MW1/1. Clause III of Ex. MW1/1 make it clear that his appointment was purely on contract basis for a period of six months from 1-11-96 to 30-4-97 (year is wrongly written in that document as 96). These terms make it clear that he was a contractual employee. IRCON Recruitment Rule 1979 (hereinafter referred to as the Rules) make it clear that there was provision for engagement of employees on short term appointment. Rule 6.4.1 authorises Managing Director to engage daily rated staff at the rates and condition to be decided by him. Rule 6.2.1 speaks of direct recruitment in cases where it is not possible to obtain staff on deputation. It has been further mentioned therein that for direct recruitment, the staff employed against short term vacancies or specific project on daily rate basis may also be considered. Out of these rules it emerge that IRCON may engage employee(s) against short term vacancies on daily rate basis. Rule 8.1 speaks of appointment on direct basis through Employment Exchange or in the manner as permitted by the provisions of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959. Rule 8.5 and 8.7 detail procedure for appointment on direct basis. Rule 12.1 speaks of absorption of deputationists. Rule 12.2 speaks of confirmation of persons recruited directly or working on daily rate basis. Therefore it is crystal clear that IRCON may appoint persons against short term vacancies on daily rate basis. There are provisions in the rules for their permanent absorption too.

17. Whether grant of wages in regular pay scale is indicative of the fact that Sh. Kishan Lal was engaged on permanent basis? Answer is given by Clause III of Ex. MW1/1. As pointed out above, he was appointed purely on contract basis for a period of six months. His period of contractual appointment was extendable at the discretion of IRCON and terminable during the contract period and extended period by giving one month notice, on either side or salary in lieu thereof. His contract was extended up to 30-6-98 and his services were terminated due to non-renewal of the contract.

18. Jagan Nath swears in his affidavit Ex.WW5/A that he joined IRCON on 10-11-88 as a daily wage driver. He was initially posted at Dadri, where a railway siding project was being executed for National Thermal Power

Corporation. Consolidated pay was given to him from 1-8-89 and on 13-10-89 he was transferred to corporate office. On 18-5-90, pay in time scale of Rs. 260-400 was granted to him, on being declared successful in trade test. On 9-11-95, he was posted in Panipat Refinery project. On 5-2-98, he was not allowed to enter office premises, on the pretext that his service had come to end on closure of Dadri project. When his testimony was purified by an ordeal of cross-examination, he concedes that his appointment was made on contract. He remained in Dadri project till 1995 and thereafter transferred to Panipat project where he worked up to 1998. He opted to adopt an indifferent posture when he deposed that he was not aware whether he approached High Court of Judicature at Allahabad by way of writ petition and operation of order terminating his services was stayed. He denied that on account of closure of Dadri project, compensation was paid to him. He feigned ignorance as to whether his services were terminated on account of closure of Panipat project.

19. Shri. Parmod Kumar swears in his affidavit that Jagan Nath was engaged as a driver at Dadri project with effect from 18-5-1990 on daily wage basis. Dadri project was closed on 5-2-1998. Shri Parmod Kumar proved document Ex. MW1/8, which highlights that services of Shri Jagan Nath were temporally placed at the disposal of Panipat project, in view of interim orders passed by High Court of Judicature at Allahabad. His services were terminated on proforma basis with effect from 5-2-1998, which orders were not accepted by him. Panipat project was closed down on 23-4-1999 and services of Shri Jagan Nath were terminated. One month notice pay and retrenchment compensation, besides other dues amounting to Rs. 95280 were paid to him. He has also proved appointment letter Ex. MW-1/6 which confirms facts testified by him to the effect that Jagan Nath was appointed on 18-5-1990 at Dadri project on adhoc basis. His transfer order to Panipat project has also been proved as Ex. MW-1/7. Shri Parmod Kumar admits that IRCON had transferred workers from one project to another, as per exigencies of the projects.

20. Out of facts unfolded by Shri Jagan Nath and Shri Parmod Kumar it came to light that Shri Jagan Nath was appointed as a daily wage employee at Dadri project on 10-11-1988. He was given appointment on adhoc basis in the pay scale of Rs. 260-400 with effect from 18-5-1990. His services were liable to be terminated without any notice or assigning any reasons. His services were terminated in 1995, without any reason as per stipulation contained in appointment letter Ex. MW1/6. He approached High Court of Judicature at Allahabad and in view of interim orders passed by the High Court, his lien was ordered to be maintained at Dadri project and order Ex. MW1/7 was passed transferring him to Panipat project. Dadri project closed on 5-2-98 and his services were terminated on

proforma basis, which order was not accepted by him. He was allowed to continue in service till closer of Panipat project. On 23-4-99, Panipat project was also closed. No dispute was made by Jagan Nath on factum of closer of Dadri project on 5-2-98, and Panipat project on 23-4-99. Ex. MW1/8, makes it clear that one month notice pay, retrenchment compensation and other benefits were released in favour of Jagan Nath at that time.

21. A question for consideration comes as to whether Shri Jagan Nath was an employee of IRCON or an employee of Dadri project. At the cost of repetition, it is said that Jagan Nath admitted in his affidavit Ex. WW5/A, as well as in his cross-examination that he was appointed at Dadri project. Ex. MW1/6, which has not been disputed by the claimant, makes it clear that Shri Jagan Nath was appointed as a driver on adhoc basis at Dadri project. It has also come on record that claimant worked at Dadri project till 1995, when his services were terminated in terms of stipulation contained in Ex. MW1/6 in that behalf. He approached High Court of Judicature at Allahabad and in compliance of interim orders passed by the High Court, he was adjusted at Panipat project. Therefore it is crystal clear that the claimant was appointed at Dadri project. His services were terminated in terms of stipulation contained in his letter of appointment, which is Ex. MW1/6. He questioned that action before the High Court and in compliance of an interim order, he was adjusted at Panipat project by way of an order which has been proved as Ex. MW1/7. Therefore it has emerged that the orders, passed by the writ court, were complied with and the claimant was temporarily adjusted at Panipat project. It was made clear to the claimant that he will maintain his lien at the project where he was initially appointed, in terms of order Ex. MW1/7. The claimant never raised his eyebrows on the contents of the said order. Consequently, it is apparent that there was no dispute on the proposition that the claimant was to maintain his lien at Dadri project. His adjustment/transfer at Panipat project was not on account of conscious choice of IRCON, but in compliance of judicial command, which was never made absolute. Hence no conclusion follows that Jagan Nath was given status of regular employee of IRCON.

22. Sh. Lekh Raj claims to have been appointed by IRCON as typist on 2-12-88 a daily wage. He was granted consolidated pay after 11-7-90, and given regular scale of pay of Rs. 260-400 with effect from 15-11-94, on being declared successful in the type test. He claims to have been initially posted at Dadri project and transferred to corporate office on 15-3-93. According to him, he was declared successful for cadre of work contract but those benefits were not accorded to him. He alleges that his services were abruptly terminated on 31-5-98, on pretext of closure of Dadri project. During the course of cross-examination, he reaffirms that he was initially appointed as Dadri project.

23. Sh. Pramod Kumar unfolds that Sh. Lekh Raj was initially engaged as a daily wager typist vide letter dated 15-11-94, which is Ex. MW1/32. He was appointed on contract upto 30-6-95. Ex. MW1/32 makes it clear that term of appointment was extendable as well as terminable during the contract period as well as extended period of contract on one months notice or pay in lieu thereof. His term of appointment was extended from time to time and it came to an end on 31-5-98, on account of non renewal of the term of contract. Notice pay and retrenchment compensation was paid to him.

24. Though Sh. Lekh Raj claims to have been transferred to corporate office on 16-3-93, but no proof of that fact was given. In the same manner, no proof came on the record relating to his engagement as a daily wager from 2-12-88 to 11-7-90 and on consolidated pay up to 14-11-94. Letter of appointment which is Ex. MW1/32 is not a disputed document. This document brings it on the record that Sh. Lekh Raj was appointed on contract up to 30-6-95. Since his term of appointment was extendable it was extended from time to time and not extended any further, when it came to an end on 31-5-98. Notice pay and retrenchment compensation was given, though termination of services of the claimant did not fell within the ambit of retrenchment, as detailed in subsequent sections.

25. Mohan Shyam claims to have been appointed as messenger on 1-9-89 on daily wages. According to him, he was given consolidated pay from 30-4-90. He was initially posted at Dadri project. On his satisfactory completion of service, he was granted pay in regular scale of Rs. 196—232 with effect from 1-11-93. He was assigned job of driver on 11-5-94 and transferred to Panipat refinery project. His services were abruptly terminated on 5-2-98, on the pretext of closure of Dadri project. During the course of cross-examination, he admitted that notice of closure was posted at the site of the project. He further admits that his services were terminated on account of closure of the project.

26. Sh. Pramod Kumar presents that Sh. Mohan Shyam was engaged as driver for a period of one year on contract vide letter Ex. MW 1/34. His contract was extendable and terminable on one month notice or pay in lieu thereof. As per the terms of his contract, he was liable to be transferred to any project, while maintaining lien on Panipat refinery project. He went on to claim that Panipat refinery project was closed on 23-4-99 and services of Sh. Mohan Shyam were terminated on tendering notice pay and retrenchment compensation. He refused to accept notice pay and retrenchment compensation, which fact emerge out of the contents of Ex. MW1/35.

27. Scrutiny of Ex. MW 1/35, gives support to fact testified by Mohan Shyam to the effect that initially he was appointed at Dadri project on daily wages.

Subsequently he was appointed on contract basis as a driver at Panipat refinery project with effect from 17-9-94 for a period of one year. His term of appointment was extendable and terminable on one months notice or pay in lieu thereof. His contract was terminated on 23-4-99 and notice pay and retrenchment compensation amount of Rs. 103779 was tendered to him. He refused to accept notice pay and retrenchment compensation. On the other hand he admits that he was appointed at Panipat project, which was closed on 23-4-99. Therefore case of Mohan Shyam is to be discarded on both standards, viz. on account of non-renewal of term of contract as well as on closure of Panipat project and tendering notice pay as well as retrenchment compensation, which standards are discussed below. Refusal to accept notice pay and retrenchment compensation would not provide any accolade to the claimant.

28. Whether termination of services of Shri Kishan Lal, Jagan Nath, Lekh Raj and Mohan Shyam amount to retrenchment? For an answer, definition of the term is to be construed. Clause (oo) of Section 2 of the Industrial Disputes Act, 1947 (in short the Act) defines retrenchment. For sake of convenience, the said definition is as extracted thus:

“(oo) “retrenchment” means the termination by the employer of the services of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include-

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the services of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the services of a workman on the ground of continued ill-health”.

29. Definition of retrenchment is very wide and in two parts. The first part is exhaustive, which lays down that retrenchment means the termination of the service of a workman by the employer “for any reason whatsoever” otherwise than as a punishment inflicted by way of disciplinary action. Thus main part of the definition itself excludes the termination of service, as a measure of punishment inflicted by way of disciplinary action from the ambit of retrenchment. The second part further excludes (i) voluntary retirement of the workman, or (ii) retirement

of workman on reaching the age of superannuation, or (iii) termination of the service of a workman as a result of non-renewal of contract of employment, or (iv) termination of contract of employment in terms of a stipulation contained in the contract of employment in that behalf, or (v) termination of service on the ground of continued ill health of the workman. Reference can be made to the precedents in *Avon Services (Production Agencies) (Pvt.) Ltd.* [1979 (I) LLJ 1] and *Mahabir* [1979 (II) LLJ 363].

30. Sub Clause (bb) purports to exclude from the ambit of the definition of retrenchment (i) termination of the service of a workman as a result of non-renewal of the contract of employment between the employer and the workman concerned, on its expiry, or (ii) termination of the contract of employment in terms of a stipulation contained in the contract of employment in that behalf. The first part relates to termination of service of a workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry. Thus "non-renewal of contract of employment" presupposes an existing contract of employment, which is not renewed. When services of an employee is terminated on account of non-renewal of contract of employment, between the employer and the workman, it does not amount to retrenchment. The second part refers to "such contract" being terminated under a stipulation in that behalf contained therein. The cases contemplated, under this part too, would not amount to retrenchment. However this sub-clause, being in the nature of an exception to clause (oo) of Section 2 of the Act, is ruled to be construed strictly when contractual agreement is used as modus operandi to frustrate claim of the employee to become regular or permanent against a job. The adjudicator has to address himself to the question whether the period of employment was stipulated in the contract of employment as a device to escape the applicability of the definition of retrenchment. See *Shailendra Nath Shukla* (1987 Lab. I.C. 1607), *Dilip Hanumantrao Shrike* (1990 Lab. I.C. 100) and *Balbir Singh* (1990 (1) LLJ. 443). On review of law laid by the Apex Court and various High Courts, a single Judge of the Madhya Pradesh High Court, in *Madhya Pradesh Bank Karamchhari Sangh* (1996 Lab. I.C. 1161) has laid following principles of interpretation and application of sub-clause (bb) of clause (oo) of section 2 of the Act:

- (i) that the provisions of section 2(oo)(bb) are to be construed benevolently in favour of the workman,
- (ii) that if the workman is allowed to continue in service by making periodic appointments from time to time, then it can be said that the case would not fall under section 2(oo)(bb),
- (iii) that the provisions of section 2 (oo)(bb) are not to be interpreted in the manner which may stifle the main provision,

- (iv) that if the workman continues in service, the non-renewal of the contract can be deemed as mala fide and it may amount to be a fraud on statute;
- (v) that there would be wrong presumption of non-applicability of section 2(oo)(bb) where the work is of continuous nature and there is nothing on record that the work for which a workman has been appointed had come to an end".

31. Whether provisions of retrenchment, enacted in the Act, provide for any security of tenure? Answer lies in negative. Provisions of retrenchment provide for certain benefits to a workman in case of termination of his service, falling within the ambit of definition of retrenchment. On compliance of the requirements of Section 25F or 25N and 25G of the Act, it is open to the employer to retrench a workman.

32. Termination of service of an employee during the period of probation was held to be covered by the exception contained in sub-clause (bb) of Section 2(oo) of the Act, in *C.M. Venugopal* (1994 (1) LLJ 597). As per fact of the case, Regulation 14 of the Life Insurance Corporation of India (Staff) Regulation 1962 empowered the Corporation to terminate the service of an employee within the period of probation. The employee was put on probation for a period of one year, which was extended by another year. Since he could not achieve the target to earn confirmation, his service was terminated in terms of Regulation 14 as well as order of appointment. The Apex Court ruled that the case was covered by the exception contained in sub-clause (bb), hence it was not retrenchment.

33. In *Morinda Co-operative Sugar Mills Ltd.* (1996 Lab. I.C. 221) a sugar factory used to employ certain number of workmen during crushing season and at the end to the crushing season their employment used to cease. The Supreme Court held that despite the fact that the workmen worked for more than 240 days in a year, cessation of their employment at the end of crushing season would not amount to retrenchment in view of the provisions of sub-clause (bb) of section 2(oo) of the Act. It was observed as follows:

"4. It would thus be clear that the respondents were not working throughout the season. They worked during crushing seasons only. The respondents were taken into work for the season and consequent to closure of the season, they ceased to work.

5. The question, is whether such a cessation would amount to retrenchment. Since it is only a seasonal work, the respondents cannot be said to have been retrenched in view of what is stated in sub-clause (bb) of Section 2(oo) of the Act. Under these

circumstances, we are of the opinion that the view taken by the Labour Court and the High Court is illegal. However, the appellant is directed to maintain a register for all workmen engaged during the seasons enumerated herein before and when the new season starts the appellant should make a publication in neighbouring places in which the respondents normally live and if they would report for duty, the appellant would engage them in accordance with seniority and exigency of work”.

34. Above legal position was reiterated by the Apex Court in Anil Bapuro Kanase [1997 (10) S.C.C. 599] wherein it was noted as follows:

“3. The learned counsel for the appellant contends that the judgment of the High Court of Bombay relied on in the impugned order dated 28-3-1995 in Writ Petition No.488 of 1994 is perhaps not applicable. Since the appellant has worked for more than 180 days, he is to be treated as retrenched employee and if the procedure contemplated under Section 25-F of the Industrial Disputes Act, 1947 is applied, his retrenchment is illegal. We find no force in this contention. In Morinda Coop. Sugar Mills Ltd. v. Ram Kishan in para 3, this Court has dealt with engagement of the seasonal workman in sugarcane crushing, in para 4, it is stated that it was not a case of retrenchment of the workman, but of closure of the factory after the crushing season was over. Accordingly, in para 5, it was held that it is not ‘retrenchment’ within the meaning of Section 2(oo) of the Act. As a consequence the appellant is not entitled to retrenchment as per sub-clause (bb) of Section 2(oo) of the Act. Since the present work is seasonal business, the principles of the Act have no application. However, this Court has directed that the respondent management should maintain a register and engage the workmen when the season starts in the succeeding years in the order of seniority. Until all the employees whose names appear in the list are engaged in addition to the employees who are already working, the management should not go in for fresh engagement of new workmen. It would be incumbent upon the respondent management to adopt such procedure as is enumerated above”.

35. In Harmohinder Singh [2001 (5) S.C.C. 540] an employee was appointed as a salesman by kharga canteen on 1-6-74 and subsequently as a cashier on 9-8-75. The letter of appointment and Standing Orders, inter alia, provided that his service could be terminated by one month's notice by either party. He was served with a notice to the effect that his service would be relinquished with effect from 30-6-1989. Relying precedent in Uptor India Ltd. [1998 (6) S.C.C. 538] the Apex Court ruled that contract

of service for a fixed term are excluded from the ambit of retrenchment. Decision in Balbir Singh (supra) was held to be erroneous. It was also ruled that principles of natural justice are not applicable where termination takes place on expiry of contract of service.

36. In Batala Coop. Sugar Mills Ltd. [2005 (8) S.C.C. 481] an employee was engaged on casual basis on daily wages for specific work and for a specific period. He was engaged on 1-4-1986 and worked upto 12-2-94. The Labour Court concluded that termination of his services was violative of provisions of section 25-F of the Act, hence ordered for his reinstatement with 50% back wages. Relying precedents in Morinda Coop. Sugar Mills (supra) and Anil Bapuro Kanase (supra) the Apex Court ruled that since his engagement was for a specific period and specific work, relief granted to him by the Labour Court can not be maintained.

37. The Apex Court dealt with such a situation again in Darbara Singh (2006 LLR 68) wherein an employee was appointed by the Punjab State Electricity Board as peon on daily wage basis from 8-1-88 to 29-2-88. His services were extend from time to time and finally dispensed with in June 1989. The Supreme Court ruled that engagement of Darbara Singh was for a specific period and conditional. His termination did not amount to retrenchment. His case was found to be covered under exception contained in sub-clause (bb) of Section 2(oo) of the Act. In Kishore Chand Samal (2006 LLR 65), same view was maintained by the Apex Court. It was ruled therein that the precedent in S. M. Nilajkar [2003 (II) LLJ 359] has no application to the controversy since it was ruled therein that mere mention about the engagement being temporary without indication of any period attracts Section 25 F of the Act if it is proved that the concerned workman had worked continuously for more than 240 days. Case of Darbara Singh and Kishan Chand Samal were found to be relating to fixed term of appointment.

38. In BSES Yamuna Power Ltd. (2006 LLR 1144) Rakesh Kumar was appointed as Copyist on 29-9-89, initially for a period of three months as a daily wager. His term of appointment was extended up to 20-9-90. No further extension was given and his services were dispensed with on 20-9-90. On consideration of facts and law High Court of Delhi has observed thus :

“... In the present case, the respondent was appointed as a copyist for totaling the accounts of ledger for the year 1986-87 and then for 1987-88. His initial appointment was for the period of three months. It was extended from time to time and no extension was given after 20th September, 1990. He was appointed without any regular process of appointment, purely casual and on temporary basis for specific work of totaling of ledger. When this work was over, no extension was given. I consider

that appointment as that of the respondent is squarely covered under Section 2(oo)(bb) of the Act. Giving of non extension did not amount to termination of service, it was not a case of retrenchment”

39. Precedents, handed down by Allahabad High Court in Shailendra Nath Shukla (supra), Bombay High Court in Dilip Hariumantrao Shirke (supra), Punjab & Haryana High Court in Balbir Singh (supra) and Madhya Pradesh High Court in Madhya Pradesh Bank Karamchari Sangh (supra) castrate sub-clause (bb) of Section 2(oo) of the Act. Ratio decidendi in these precedents abrogates statutory provisions of sub-clause (bb) of Section 2 (oo) of the Act without even discussing the legality or constitutional validity of the clause. On the other hand the Apex Court in C.M.Venugopal (supra), Morinda Co-operative Sugar Mills Ltd. (supra), Anil Bapurao Kanase (supra), Harmohinder Singh (supra), Batala Coop. Sugar Mills Ltd. (supra), Darbara Singh (supra) and Kishore Chand Samal (supra) and High Court of Delhi in BSES Yamuna Power Ltd. (supra) spoke that case of an employee, appointed for a specific period which was extended from time to time, would be covered by the exception contained in sub-clause (bb) of Section 2(oo) of the Act, in case his services are dispensed with as a result of non-renewal of the contract of employment between him and his employer, on its expiry or termination of the contract of employment in terms of a stipulation contained in the contract of employment in that behalf. The law, so laid, holds the water and would be applied to the case of Sh. Kishan Lal, Jagan Nath, Lekh Raj and Mohan Shyam.

40. Kishan Lal was appointed for a period of six months, as detailed in Ex. MW1/1. Period of contractual appointment was extended, from time to time up to 30-6-98. No further extension was given and his services were terminated on 30-6-98, due to non renewal of the contract. His termination does not amount to retrenchment. Terminal benefits were paid to Shri Kishan Lal, vide cheque Ex. MW1/5. Thus it is evident that termination of services of Shri Kishan Lal does not amount to retrenchment. Provisions of Section 25F or 25FFF of the Act do not come into play. Action of IRCON cannot be faulted at all. Under these circumstances it is concluded that the action of IRCON was within rights available to it under the law.

41. Rule 8.1 speaks that appointment on direct basis shall be made through the Employment Exchange or in the manner as permitted by provisions of the Employment Exchange (Compulsory Notification of Vacancies) Act 1959. Applications, so received, will be subjected to a careful scrutiny in the Corporate Office, commands rule 8.5. Selection will be subject to written test and/or interview depending on demands of the post, provides rule 8.7 of the Rules. For regularization of persons appointed on short term basis, selection process shall comprise of written

examination and/or interview in accordance with the norms given in rule 12.2.1 of the Rules. It is not the case of Shri Kishan Lal that either he was appointed in the manner as provided by rule 8.1 or regularized in accordance with the norms contained in rule 12.2.1 of the Rules. Consequently he can not claim that he was a permanent employee of IRCON. As held above, he was appointed on contract basis and never acquired status of a permanent employee. His services were rightly dispensed with by the management.

42. As detailed above, services of Shri Jagan Nath were terminated in terms of stipulation contained in the contract of employment Ex. MW1/6, in that behalf. Termination of contract of employment, in terms of stipulation contained therein in that regard would not amount to retrenchment. He challenged termination of contract of his employment before High Court of Judicature at Allahabad. When a command was given, IRCON adjusted him at Panipat project and passed order Ex. MW1/7. Thus it is clear that his adjustment at Panipat project was in the manner of his re-employment, allowing him to maintain his lien at Dadri project. His services were terminated on proforma basis on closure of Dadri project on 5-2-98. Since he did not accept that order, his services were again terminated on 23-4-99, on closure of Panipat project. Evidence brought over the record is deficient on the count that he was appointed on direct basis, following the procedure detailed above. No evidence was also adduced by Shri Jagan Nath to show that his services were absorbed permanently. Hence it does not lie in his mouth to claim that he was a permanent employee of IRCON.

43. Termination of contract of employment, in terms of stipulation contained in the contract of employment in that regard, was not found to be illegal by the High Court of Judicature at Allahabad. Initially an interim order was passed and in compliance of that order, he was adjusted at Panipat project. However he was to maintain his lien at Dadri project. On closure of Dadri project, his services were terminated on proforma basis, which orders were not accepted by him. His services were again dispensed with on 23-4-99, on closure of Panipat project. Closure of these two projects on 5-2-98 and 23-4-99 respectively has not been disputed. One month notice pay and retrenchment compensation was paid to him. These facts are sufficient to conclude that services of Shri Jagan Nath were terminated by IRCON at first instance in terms of stipulation in contract of employment and subsequently in accordance with the provisions of Section 25-FFF read with 25-O of the Act, principles contained therein are detailed in subsequent sections.

44. As detailed above services of Shri Lakh Raj came to an end on 31-5-98 on account of non-renewal of terms of his contract. Termination of his services falls within

the exception contained in clause (bb) of Section 2 (oo) of the Act and does not amount to retrenchment. Notice pay and retrenchment compensation amounting to Rs. 21756 was paid to him, vide Ex. MW1/33. His alleged transfer at Corporate Office on 16-3-93 would not change his status to an employee recruited/appointed on direct basis, as discussed in subsequent sections. He is not entitled to any relief.

45. Mohan Shyam was initially employed at Dadri Project on daily wages. Subsequently, he was appointed on contract for a period of one year at Panipat Project. Appointment letter Ex. MW 1/34 unfolds that his services were liable to be terminated on one months notice or pay in lieu thereof. On closure of Panipat Project his services were terminated under the stipulation in that behalf, contained in Ex. MW1/34. Termination of his services does not amount to retrenchment. Notice pay and retrenchment compensation amounting to Rs. 103779 was tendered, which was not accepted by him. Even non-acceptance of notice pay and retrenchment compensation would not raise any eye-brow on the matter, which proposition is discussed in subsequent sections. In view of these facts Mohan Shyam is only entitled to notice pay and retrenchment compensation offered to him, amounting to Rs. 103779.

46. Now I would address myself to the facts of cases of other claimants. In his affidavit Ex. WW8/A, Sh. Mukund Lal Sharma Projects that he joined IRCON as driver on 12-10-92 on daily wages. Subsequently he was granted consolidated pay and ultimately in the scale of Rs. 1050-1750 with effect from 1-1-97. He was posted at Dadri initially and transferred to Delhi Mathura Road Project on 6-10-93. On 5-2-98, he was restrained from entering into his office on the pretext that Dadri Project has come to an end. During the course of his cross-examination, he concedes that he was informed by his officers through a fax message that Dadri Project has been closed.

47. Sh. Parmod Kumar highlights in his affidavit that Mukund Lal Sharma was engaged as a driver at Delhi Mathura Road Project on 6-10-93 vide appointment letter Ex. MW1/9. He served Delhi Mathura Road Project till 3-6-98. On closure of the said Project, his services were terminated on 3-6-98 after payment of one month wages in lieu of notice and retrenchment compensation vide letter Ex. MW1/10. During the course of his cross-examination, the claimant failed to dispute contents of Ex. MW 1/9 and MW 1/10.

48. When facts unfolded by Sh. Mukund Lal Sharma and Parmod Kumar are scanned and appreciated in the light of the documents proved, it emerged over the record that initially, the claimant was engaged as a driver at Dadri Project. He served at that Project for about one year, as a daily wage. Thereafter he was appointed at Delhi Mathura

Road Project, vide appointment letter Ex. MW1/9. This document makes it clear that initially he was appointed on contract for a period of three months, which contract was renewable by mutual consent. The contract was extended from time to time. Delhi Mathura Road Project was closed on 3-6-98. Factum of closure of Delhi Mathura Road Project was not at all disputed by Sh. Mukund Lal Sharma. On closure of Delhi Mathura Road Project, he was paid one month wages in lieu of notice and retrenchment compensation as contemplated by clause (b) of Section 25F read with sub-section (2) of Section 25FFF of the Act. A sum of Rs. 49356 was paid to Sh. Sharma.

49. Mumtyaz Ali swears in his affidavit Ex. WW9/A that he joined services with IRCON on 29-1-90 as messenger. He worked on daily wage basis up to 3-9-90 and with effect from 4-9-90, he was given pay in scale of Rs. 196-232. He claims that initially he was posted at corporate office, New Delhi. On 1-6-91 he was transferred to Delhi Mathura Road Project. On 3-6-98 his services were abruptly terminated. During the course of his cross-examination, he concedes that closure notice was pasted at the notice board in Faridabad office of the Project, besides notice board at the site of the Project. He denied that compensation amounting to Rs. 41007 was paid to him.

50. Sh. Parmod Kumar swears in his affidavit that Mumtyaz Ali was initially engaged as messenger vide order dated 29-1-90 on casual basis. The said order has been proved by him as Ex. MW1/25. He went on to detail that subsequently, he was engaged for a period of six months on contract vide order which is Ex. MW 1/26. He was engaged locally at Delhi Mathura Road Project. On closure of the Project, he was paid wages in lieu of notice and retrenchment compensation vide letter Ex. MW1/27. Compensation was paid on the strength of demand draft No. 923260 dated 30-5-98 for on amount of Rs. 41007.

51. When facts unfolded by the claimant and Sh. Parmod Kumar were closely perused it came to light that initially Mumtyaz Ali was engaged at the corporate office of IRCON on casual basis. Letter Ex. MW1/25, unfolds that his services were liable to be terminated without any notice. Subsequently he was offered employment, on contract for a period of six months vide letter of appointment which is Ex. MW1/26. His term of appointment was extendable at the discretion of IRCON and terminable, during contract period and the extended period, by giving one month notice or salary in lieu thereof. His services were extended from that to time and terminated with effect from 3rd June, 1998, on closure of Delhi Mathura Road Project. As unfolded by the document Ex. MW1/27 compensation amount of Rs. 41007 was paid through demand draft No. 923260, which was sent by registered post at the residential address of the claimant. He was engaged at Delhi Mathura Road Project, closure of which

Project is beyond dispute. Though the claimant disputes payment of compensation yet he opted not to dispel facts unfolded by Sh. Parmod Kumar, relating to payment of compensation through demand draft No. 923260. Thus it is clear that the claimant had not attempted to dislodge facts relating to payment of compensation amount.

52. In affidavit Ex. WW6/A, Raghunath Rai claims that he joined IRCON as driver on 23-12-88 on daily wages in corporate office, New Delhi. Subsequently on 18-5-90, he was appointed in pay scale of Rs. 260—400 on being declared successful in trade test. He announces that he was initially posted in Dadri Project and subsequently transferred to Canara Bank Housing Project on 4-3-94 and finally to ICAR Project at Pusa, New Delhi on 4-7-95. His services were abruptly terminated on 5-2-98, claiming that Dadri Project came to an end. During the course of his cross-examination he concedes that his services were terminated on account of closure of ICAR Project at Pusa, New Delhi.

53. Sh. Parmod Kumar announces that Sh. Raghunath Rai was engaged as a driver on 18-5-90 at Dadri Project, vide appointment letter which is Ex. MW1/21. Contents of Ex. MW 1/21 highlights that his services were liable to be terminated without notice or assigning any reason. Sh. Kumar tells that when Dadri Project was at the verge of closure, Sh. Raghunath Rai was temporarily transferred to Canara Bank Housing Project and ICAR, Pusa Project. He was allowed to draw his wages from Dadri Project. On closure of Dadri Project, his services were terminated with effect from 5-2-98, on payment of notice pay and retrenchment compensation. Demand draft for a sum of Rs. 44571 was sent to him, claims Sh. Kumar.

54. Ex. MW1/21 makes it clear that Shri Raghunath Rai was appointed as driver on adhoc basis at Dadri Project. His services were liable to be terminated without notice and assigning any reason. Ex. MW1/22 makes it clear that the claimant was transferred to Canara Bank Housing Project, Noida and retransferred to ICAR Pusa Project, New Delhi. Ex. MW1/23, makes it clear that on closure of Dadri Project services of Sh. Rai were done away, on payment of notice pay and retrenchment compensation. There is no dispute as to appointment of the claimant at Dadri Project and closure of that Project on 5-2-98. Whether his transfer from Dadri Project, when it was on the verge of closure, created any right in his favour for continuation in service on closer of the aforesaid Project? As detailed above notice of termination of his service, besides notice pay and retrenchment compensation were given to Shri Rai. Shri Kumar deposed successfully that when Dadri Project was at the verge of closure, services of Shri Rai were transferred to Canara Bank Housing Project and after sometime to ICAR Pusa Project, New Delhi. An employer has a right to close down an establishment by stages, as held by the Apex Court in

Straw Board Manufacturing Co. Ltd. [1974 (1) LLJ 499]. Speaking for the Court Justice Goswami, enunciated the principles in the following words:

“It may not always be possible to immediately shut down a mill or concern even though a decision to close the same may at any rate at the time have irrevocably been taken. There is, therefore, nothing wrong in the employer arranging closure of S. Mill in such a way as to guard against unnecessary inconvenience to both the management as well as to the labour and against possible avoidable wastage or loss to the concern, say, for not being able to complete some processes which have ultimately to be finished. Having decided to close down a unit on account of non-availability of raw material the supply of which had stopped, it was necessary to go on with the unused stock of raw material for some time for which a lesser number of workers would be necessary who would then naturally constitute the next batch or batches to go. We do not see anything wrong in law in electing such a step or mode in finally closing a unit or a concern. It may be in the nature of a business to take recourse to such a mode which cannot ordinarily and per se be considered as unfair or illegitimate”.

55. When work of Dadri Project was near completion, it was competent for the authorities to close down the Project by stages. Services of the claimant, alongwith a few others would have been dispensed with to avoid wastage, till the work would have been completed there. However no decisions to close the Project by stages was taken. On the other hand, the authorities took a decisions to avail services of the claimant at Canara Bank Housing Project and lastely at ICAR Pusa, New Delhi. There is nothing wrong in electing such a method and to dispense with the services of the claimant on the date when Dadri Project was closed down. Therefore transfer of the claimant to these Projects no where create any right or status in his favour. No evidence is there on record to conclude that Shri Rai was absorbed by IRCON on the strength of its establishment. He was never given an employment as employee of IRCON. Mere grant of scale pay does not bring it over the record that IRCON ever took Sh. Rai on the strength of its establishment. Therefore closure of Dadri Project brings an end to his services.

56. Transfer of an employee is an implied condition of the contract of industrial employment. Even if transferability from one place to another in which employment has been secured, is not an express conditions of service, it can be read in to the contact as an implied term if there is some compulsion to read it into a contract of service by implication, having regard to the very nature of the employment and not otherwise. One must be able to say : what is obvious need not be explicitly stated and

may be taken to have been understood by both the sides. See *Automotive Manufactures Ltd.* (1977 Lab. I.C. 1188). Transfer of an employee from one department to another or from one place to another is, therefore in the discretion of the management provided the terms and conditions of his service are not adversely affected. Reference can be made to *Hindustan Lever Ltd.* (1974 (1) LLJ 94). The employer is in the best position to judge how to distribute his employees between different jobs, departments or branches. He is entitled to decide on a consideration of the necessities or exigencies of his business whether transfer of an employee should be made from one particular job, department or branch to another. "Courts or Tribunals are not appellate forums to decide on administrative grounds" and are "not expected to interdict the working of the administrative system by transferring the officers to proper places", pointed out the Apex Court in *S.S. Kourav* (1995 Lab. I.C. 1574). Transfer being a part of managerial function, it is ordinarily for the management to determine the time and place of transfer having regard to the exigencies of business and where the workmen is transferred in bona fide exercise of such function, such transfer is not open to challenge in industrial adjudication. See *National Buildings Construction Corporation Ltd.* (1952 Lab. I.C. 62).

57. Transfer order should not be passed as a measure of penalty or victimization or unfair labour practice. Transfer should not tantamount to "reduction in rank" viz. employee concerned loses emoluments, seniority, chances of promotion and other such discernible advantages attached to a post. However, the scale of a salary attached to the post may not be finally determinative of the question whether the transfer was mala fide or not. A reduction in status and change in duties attached to the post may also be relevant. See *P. N. Bhulayan* (1966 Lab. I.C. 1707). Except the safe-guards, referred above, transfer order cannot be questioned before an industrial adjudicator.

58. As the Rules unfold IRCON may employ staff against short term vacancies, against specific Project and on direct basis. It may take employees on deputation too. Norms of appointment on direct basis and regularization of persons appointment on short term basis are there in the rules. Thus it is clear that four types of employees are there with the IRCON viz. (i) appointed against short term vacancies, (ii) appointed against specific Project, (iii) employees employed by way of deputation, and (iv) appointed on direct basis. When an employee is transferred from one department to another or one place to another, the transfer order does not change his status. If the concerned employee is an employee of Project, his status, remains as such, despite his transfer. To avoid loss and evade closure of a Project by stages, transfer of a Project employee to another Project would answer standards of bona fides. Hence transfer of Shri Raghunath Rai from Dadri Project to Canara Bank Housing Project

and lastly to ICAR Pusa Project would not accord him status of an employee of IRCON, recruited on direct basis.

59. Sh. Teju Lal claims to have been engaged as a messenger on 13-3-89 on daily wages. He was subsequently granted consolidated pay on 31-9-89 upto 31-1-93. Pay in regular scale of pay of Rs. 196-232 was granted to him with effect from 1-11-93. He asserts that initially, he was posted at Dadri Project and on 1-2-93 transferred to corporate office, New Delhi. His services were abruptly terminated on 5-2-98. During the course of his cross-examination, he admits closure of Dadri Project and termination of his services on payment of notice pay and retrenchment compensation.

60. Out of fact unfolded by Sh. Teju Lal, it is evident that he was engaged at Dadri Project. He was temporarily posted at corporate office, on the strength of Ex. MWI/15. It is announced in Ex. MWI/15 that Sh. Teju Lal would remain on the rolls of Dadri Project. Ex. MWI/16 speaks of closure of Dadri Project and payment of wages in lieu of notice and retrenchment compensation to Sh. Teju Lal. As admitted by the claimant, he was an employee of the Project. His temporary transfer to corporate office does not change his status, since to avoid wastage the employer may have work from him at a different station than one where he was engaged. Such method was adopted, to avoid closure of the Project by stage. Hence his transfer at corporate office would not discount him from the status of an employee of the Project. He has not acquired a status of an employee recruited on direct basis.

61. Sh. Gopal Singh claims to have joined services as junior assistant at corporate office of IRCON on 8-11-88. However in subsequent breath, he claims to have been initially posted at Dadri Project and thereafter transferred to Delhi Mathura Road Project on 11-5-94. He asserts that on restructure of cadre(s), he was declared successful for engagement in the establishment of IRCON. But subsequently, he was not engaged in the cadre, on account of pendency of writ petition before High Court of Delhi, challenging scheme of caderization. On 5-2-98 his services were abruptly terminated on the pretext of closure of Dadri Project. During the course of his cross-examination, he concedes that his initial appointment was on contract for a period of one year. He further admits that he worked at Dadri Project from 8-11-88 till 11-5-94, the date when he was transferred to Delhi Mathura Road Project. He admits that his services were terminated on closure of Project, after payment of notice pay and retrenchment compensation.

62. Parmod Kumar proves appointment letter of Shri Gopal Singh as Ex. MWI/29, transfer letter Ex. MWI/30 and letter of termination dated 30-5-98 as Ex. MWI/31. Out of facts unfolded by Sh. Gopal Singh and Parmod Kumar, besides those contained in documents referred above, it surfaced on the carpet that Gopal Singh

was appointed as junior assistant for a period of one year for Dadri Project. Ex. MWI/29 make it clear that his services were transferable to any other Project in India. Using those contractual power his services were transferred to Delhi Mathura Road Project vide letter Ex. MW 1/30. Whether this transfer from one Project to another makes Gopal Singh an employee of IRCON? Answer lies in negative, in view of reasons detailed in preceding sections. Such power of transfer from one Project to another was agreed upon between the parties on the strength of appointment letter Ex. MWI/29. Use of those powers by IRCON would not change status of the claimant to be an employee of the former. Therefore it is concluded that Gopal Singh remained an employee of the Project all through out his service.

63. Gopal Singh attempts to claim himself to be an employee of IRCON, saying that he was declared successful for appointment in the establishment of IRCON. However in his representation dated 16-2-96, which is Ex. MWI/W3, he concedes that he was not declared successful for his caderization in the establishment of IRCON. As detailed above, IRCON selects employees from amongst temporary or contractual employees for appointment on the strength of its establishment. Such process of appointment itself highlights that till a candidate is selected, he is not on the rolls of IRCON. Therefore it is obvious that when the claimant undertook test for his selection, he conceded himself to be an employee of Project. Now he cannot be allowed to approbate and reprobate facts. He was an employee of the Project and remained as such till his services were dispensed with, on closure of the Project.

64. Laik Ram presents that he was engaged as a driver on 4-3-89 on daily wage basis. He concludes that initially he was posted at Dadri Project. He was given wages in scale pay of Rs. 260—400 with effect from 1-8-90. On 19-12-95, he was transferred to Panipat Project. On 5-2-98 his services were abruptly terminated on the pretext of closure of Dadri Project. During the course of his cross-examination, he concedes that his services were terminated on closure of Dadri Project.

65. Sh. Pramod Kumar presents that Laik Ram was engaged as a driver at Dadri Project on 1-8-90, vide appointment letter Ex. WI/18. He was transferred to Panipat Refinery Project vide letter dated 19-12-95 which is Ex. MWI/19. On closure of Dadri Project on 5-2-98, termination letter which was issued which was not accepted by Sh. Laik Ram. On closure of Panipat Refinery Project his services were terminated on 23-4-99, on payment of notice pay and retrenchment compensation. Admittedly Laik Ram was initially engaged at Dadri Project, which was closed on 5-2-98. Since he was transferred to Panipat Refinery Project vide letter Ex. MWI/19, he was allowed to continue there till the closure of that Project. Panipat Refinery Project was closed on 23-4-99. There is

no dispute as to the closure of the aforesaid Project. Notice pay and retrenchment compensation was paid, besides other dues, which fact emerge out of Ex. MWI/20. Thus it is evident that on closure of the aforesaid Project and payment of notice pay and retrenchment compensation to Sh. Laik Ram, no industrial dispute came in existence.

66. What obligations are to be discharged by IRCON to bring its case within the ambit of Section 25FFF read with 25-O of the Act? Closure of an undertaking entails termination of employment of many employees. The term "closure" has been defined by clause (cc) of Section 2 of the Act to mean "the permanent closing down of a place of employment or a part thereof". It is not necessary that the entire business of an industrial establishment should be closed down. The employer is free to close a part of the business. Partial closure must be of such a part of the undertaking as is distinct and independent. In a closure the employer not only merely closes down the place of employment, but closes down his business finally and irrevocably. But it does not mean that the business once closed can never be restarted or re-opened. Therefore closure may be once for all or may even be a temporary phase. Change of circumstances may encourage an employer to revive industrial activity which was really intended to be closed. See General Labour Union (Red Flag) Bombay (1985 Lab. I.C. 726). However closure of business whether entire or partial must be real and genuine, that is to say, it should be a closure in fact and not a ploy adopted for carrying on the same business in a different manner. Reference can be made to Rajasthan Small Scale Industries Employees Union (1990 Lab. I.C. 1668) and Banaras Ice Factory Ltd. (1957 (1) LLJ. 253).

67. Carrying on of a business is right and not an obligation. It is, therefore, as much the right of the businessman to close down the business as to carry it on. The industrial adjudication cannot interfere with the discretion exercised by the employer in such a matter. Once an industry is closed down and it is either admitted or found that the closure is real and bona fide in the sense that it is a closure in fact any dispute arising with reference thereto would fall outside the purview of the Act and that will, therefore, be so, if a dispute arises—if such can be conceived—after the closure of the business between the quondam employer and the employees, as the definition of an "industrial dispute" pre-supposes the continued existence of the industry. See Pipraich Sugar Mills Ltd. [1957 (1) LLJ 235].

68. Section 25-FFF of the Act lays down certain obligations on the employer to be fulfilled on closure of the business. His right to close down his "undertaking" has now been subjected to the requirement of 60 days' notice before closure by Section 25 FFA of the Act, breach of which entails penal consequences. In an "industrial establishment" where one hundred or more workmen are

employed, apart from 90 days' notice, closure has further been subjected to the requirement of "previous approval" of the appropriate Government by Section 25-O of the Act. A fiction has been introduced as like Section 25FF, that in case of closure of business, the workmen concerned are entitled to compensation as if the termination of their services was retrenchment even though, in fact or in law, it is not retrenchment. Therefore the workmen are entitled both to notice or wages in lieu of notice and compensation in accordance with the provisions of Section 25-F of the Act, subject of course, to the terms of the proviso to sub-Section (1), limiting the amount of compensation. The quantum of compensation under the provision is the same as payable on retrenchment under Section 25-F of the Act. The use of expression "as if" in this provision shows almost conclusively that the meaning of "retrenchment" is restrictive and does not in term apply to the case of a bona fide closure of business. In other words, Section 25-F imposes a prohibition against retrenchment until the condition prescribed in that Section are fulfilled, while provisions of Section 25-FFF do not prohibit termination of employment on closure of the undertaking and without payment of compensation and without service of notice or payment of wages in lieu of the notice. Payment of compensation and payment of wages for the period of notice are not, therefore, conditions precedent to closure. See *Hathising Manufacturing Co. Ltd.* [1960 (2) LLJ 1]. In order to entitle workmen to claim compensation, under this Section, twin conditions must exist, namely, (i) closure, and (ii) one year's continuous service by the concerned workmen.

69. Provisions of sub-Section (2) of Section 25-FFF completely exempts an employer from paying any compensation on closure of the undertaking under sub-Section (1) or proviso there under, where :

- (a) the undertaking is set up for the construction of buildings and bridges, roads, canals, dams or other construction work, or
- (b) where the construction work is closed down on account of the completion of work within two years from the date on which the undertaking had been set up.

Plain and unambiguous language used in sub-Section (2) of the said Section makes it quite clear that in case of closure of categories of undertaking mentioned therein, no workman employed in those undertakings can claim compensation under clause (b) of Section 25-F of the Act.

70. Provisions of sub-Section (8) of Section 25-O of the Act correspond to sub-Section (1) of Section 25-FFF of the Act. The quantum of compensation payable to a workman where permission for closure of an undertaking is granted or deemed to have been granted is the same as

under sub-Section (1) of Section 25-FFF of the Act. Proviso to sub-Section (1) of Section 25-O of the Act excludes the undertakings set up for construction of buildings, bridges, roads, canals, dams or for other construction work from the requirement of making an application to the appropriate Government for permission to close down the establishment or undertaking. However provisions of sub-Section (8) shall apply to such an employer to make payment of compensation equivalent to fifteen days average pay of every completed year of continuous service or any part thereof in excess of six months.

71. As detailed above, claimants, namely, Mukand Lal Sharma, Mumtyaz Ali, Raghunath Rai, Teju Lal, Gopal Singh and Liak Ram do not dispute closure of the respective Projects in which they were employed. Notice of closure of the Project(s) was given to them. It is also not a disputed fact that closure of the Project(s) was genuine and bona fide. Payment of notice pay and retrenchment compensation was made to them. Thus it is crystal clear that on closure of Project(s) no industrial dispute came in existence. Consequently, the aforesaid claimants are not entitled to any relief.

72. Sh. Dhal Singh was initially offered appointment at Korba railway siding Project. He swears in his affidavit Ex. WW4/A that subsequently he was transferred to Meerut Project on 10-1-90. He was again transferred to Malaysia Project on 4-9-91 and re-transferred to Meerut Project on 28-7-93. He was further transferred to Delhi Mathura Road Project on 12-8-97. His services were abruptly terminated on 3-6-98 on the pretext that Delhi Mathura Road Project stood closed. During the course of his cross-examination, he concedes that at the time of termination of his services, he was working in Delhi Mathura Road Project. He also concedes that his services were terminated on account of closure of the Project. A compensation of Rs. 178181 was offered to him which he refused to accept. He admits that he was exercising managerial functions. Six khalasis and two fitters were working under his supervision. He used to maintain attendance of his subordinates, working under him. He was employed as a junior engineer.

73. Sh. Parmod Kumar unfolds in his affidavit that Sh. Dhal Singh was locally engaged as junior engineer at Delhi Mathura Road Project. However he has proved letter Ex. MWI/11, wherein it has been mentioned that Sh. Dhal Singh was interviewed by the General Manager and sent to the Project Manager at Korba for his adhoc appointment at local rates. Letter Ex. MWI/12, has also been proved by Sh. Parmod Kumar which highlights that Sh. Dhal Singh was a surplus from Anpara Rihand Project and adjusted on transfer to Delhi Mathura Road Project, when the earlier Project stood closed on 6-2-98. Delhi Mathura Road Project was closed on 3-6-98 and one month salary in lieu of notice besides retrenchment compensation was offered which was not accepted by the claimant.

74. The claimant does not dispute his appointment at Anpara Rihand Project and its closure on 6-2-98. His bald testimony relating to his transfer to Meerut Project, subsequent transfer to Malaysia Project and re-transfer to Meerut Project does not find any corroboration from some other piece of evidence. These facts were even not put to Shri Parmod Kumar during the course of his cross-examination. Hence it is clear that facts in that regard are in the form of self serving statement made by Shri Dhal Singh. These facts can not lead the Tribunal to reach the destination. His initial engagement at Korba Project on adhoc basis has come over the record. In early months of year 1990, he was appointed at Anpara Rihand Project, which Project closed down on 6-2-98. He had not challenged the fact that he was adjusted at Delhi Mathura Road Project on closure of Anpara Rihand Project. His adjustment at Delhi Mathura Road Project was alternative employment given to him, as contemplated in sub-Section (1A) of Section 25FFF of the Act. This alternative employment satisfied all requirements contained in the said sub-Section. Alternative employment given to Shri Dhal Singh have an effect of continuity of his service on same remuneration and terms and conditions of service as were applicable to him at the time of closure of Anpara Rihand Project. However it does not clothe him with status of a permanent employee of IRCON. No hue and cry has been made by him in respect of closure of Delhi Mathura Road Project on 3-6-98. He admits that notice pay and retrenchment compensation was offered to him which he refused to accept. As held above payment of wages in lieu of notice and retrenchment compensation is not a condition precedent to closure of an undertaking. Even otherwise it was offered but not accepted by the claimant. Every aspect relating to closure of Delhi Mathura Road Project has been brought over the record. In view of these facts claimant Dhal Singh is not entitled to relief of being declared a permanent employee of IRCON. Action of terminating his service is within the legal para-meters, enacted in Section 25FFF read with Section 25-O of the Act. At the most amount of notice pay and retrenchment compensation would have been awarded to him, but for reasons detailed in subsequent Sections.

75. There is other facet of the coin. Dhal Singh claims that his functions and powers were managerial. There were six khalasi and two fitters, whose work he used to supervise. Ex. MW1/12 highlights that at the time of termination of his services, his wages were Rs. 7018 per month. Question would arise as to whether Dhal Singh answers ingredients of clause (s) of Section 2 of the Act, which defines the term "workman". For sake of convenience, said definition is extracted this:

"(s) Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or

implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a person, or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

76. For an employee in an industry to be "workman" it is manifest that he must be employed to do (i) manual work, (ii) unskilled work, (iii) skilled work, (iv) technical work, (v) operational work, (vi) clerical work, (vii) supervisory work. Merely performing some supervisory duties will not take the employee out of definition of workman. The word "supervision" means to oversee, to look after. Therefore supervision which is relevant in this connection is the supervision done by an employee in a higher position over the employees in the lower position. A person can be said to be supervisor if there are persons working under him, over whose work he has to keep a watch. It is not his function to bring about innovation or to take any managerial decision, but it is his duty to see that the work in any industrial unit is done in accordance with the manual, if there is one, or in accordance with the usual procedure. The central concept of supervisor is the fact that there are certain persons working under him. It is supervision over man and not machines.

77. As admitted by Sh. Dhal Singh, there were six khalasi and two fitters working under him. He used to supervise their work. He used to maintain attendance of subordinates working under him. He admits that his powers were managerial in nature. By these facts, Sh. Dhal Singh attempts to say that he used to supervise his subordinate and issue directions to them to perform the job on the site in given manner. He used to take decisions as to what work, with what material and of what quality would be performed by his subordinates. Consequently from admission made by Sh. Dhal Singh it emerges on the record that he was employed in a supervisory capacity. Ex. MW 1/12 brings it on the record that his wages exceeded one thousand six hundred rupees per mensem. These facts

persuade me to conclude that he was excluded from the category of persons who fall within the definition of workman, as contained in clause (s) of Section 2 of the Act. It takes his case out of the purview of an industrial dispute. In view of these facts neither the Tribunal is supposed to exercise jurisdiction over his case, nor he is entitled to any relief from this forum.

78. Can IRCON be commanded to adjust claimants at same other Project, on the assumption that works at various Projects are in progress? For an answer, it is to be noted as to whether work at a Project is a part of whole industry, which is being run by IRCON. Answer to this proposition is to be traced out of the statute. The Act uses expression, "undertaking", "establishment" and "industry" at various places. Section 25-F uses the word "industry", while Sections 9B, 18(3), 23, 25C, 25D, 25F and 25G have used the expression, "industrial establishment" and Section 25FF, 25FF A, 25FFF and 25-O have used the expression "undertaking". The expression "undertaking" has no where been defined in the Act, while the expression "industrial establishment" has been defined in the explanation to Section 25A for the purposes of Sections 25A, 25C, 25D and 25E. The term industry" has been defined in Section 2(j) of the Act. Undertaking is a concept narrower than industry. The industry is a whole of which an undertaking is part. The expression "undertaking" as used in the definition of "industry" was given a restricted meaning in Bangalore Water Supply and Sewerage Board case [1978 (2) SCC 213]. In the context of Section 25FFF, the expression "undertaking" has been used to connote "any work, enterprise, Project or business undertaking". It is not intended to cover the entire industry or business of the employer. Even closer or stoppage of a part of the business or activity of the employer would seem in law to be covered by sub-section (1) of Section 25FFF of the Act. Reference can be made to the precedent in Management of Hindustan Steel Ltd. (1973 Lab. IC 461). Section 25-G uses the phrase "undertaking of an industrial establishment", which implies that an industrial establishment may have one or more undertakings. It is not intended to cover the entire industry or business of the employer. Therefore a Project undertaken by IRCON would be an "undertaking" different than other Project(s) or work being run by it as its construction business. An employee of one Project cannot claim that he may be adjusted against the work of a different Project, since on termination of his service, on account of closure of that undertaking there cannot be an industrial dispute within the purview of the Act.

79. No dispute is there between the parties that Delhi Mathura Road Project, Dadri Project, Panipat Project and ICAR, Pusa Project stood closed. Works undertaken by IRCON at other Projects in the country and abroad are distinct and different then the Projects in which the claimants were engaged. Can they demand reinstatement and absorption in those Projects? Such a question arose

before the Apex Court in Hindustan Steel Works Construction Ltd. (1995 Lab. I.C. 1599) wherein the company was engaged in construction of industrial and engineering plants, both within the country and abroad. For its Project at Hyderabad the Company employed about 230 employees. The Project was completed in January 1980 except for some very minor works. At the suggestion of the Union, 130 workers were transferred to Visakhapatnam but remaining 100 could not be absorbed at any place. The management retrenched them. When the matter reached the Apex Court, it was ruled that Hyderabad Unit was distinct from other Units hence demand for absorption of remaining 100 workman in other units than Hyderabad was not justified. Speaking for the Court, Jeevan Reddy, J. observed thus:

"In our opinion, however the fact that the management reserved to itself the liberty of transferring the employees from one place to another did not mean that all the Units of the appellant constituted one single establishment. In the case of a construction company like the appellant which undertakes construction work wherever awarded, does that work and winds up its establishment there and particularly where a number of local persons have to be and are appointed for the purpose of a particular work, unity of ownership, management and control are not of much significance. Having regard to the facts and circumstances of this case and the material on record, the conclusion is inevitable that the Units at Hyderabad were distinct establishment. Once this is so, the workmen of the said unit had no right to demand absorption in other units on the Hyderabad units completing their job".

80. Facts of the present controversy are similar to the facts of above precedent. Projects of IRCON, referred above, were distinct and different units than those where the management had undertaken other works either in the country or abroad. When works at the aforesaid Projects came to an end, the claimants had no right to claim reinstatement and absorption in other units. They were never recruited on direct basis, hence cannot claim their reinstatement and absorption at corporate office of IRCON at New Delhi too.

81. In view of foregoing reasons, Gopal Singh and others, are not entitled to claim to be permanent employees of IRCON since they were employees of respective Projects. Project authorities/IRCON were well within their rights to terminate their services. Gopal Singh and others, except Mohan Shyam, do not have any benefit, which is to be granted in their favour. However Mohan Shyam is entitled to an amount of Rs. 103779, which was tendered toward notice pay and retrenchment compensation, but not accepted by him. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated: 12-8-2011

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 22 सितम्बर, 2011

For the Respondent : M/s. B.G. Ravindra Reddy
& B.V. Chandra Sekhar,
Advocates

का.आ. 2921.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 135/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-12025/01/2011-आई आर(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 22nd September, 2011

S.O. 2921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 135/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, received by the Central Government on 19-9-2011.

[No. L-12025/01/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD

Present: - Shri Ved Prakash Gaur, Presiding Officer

Dated the 7th day of April, 2011

Industrial Dispute L. C. No. 135/2006

Between:

Sri Marella Edukondalu,
S/o Lingaiah,
R/o Ziravaripalem,
Kaligiri Mandalam,
Nellore District

..Petitioner

AND

The Chief General Manager (Personal),
State Bank of India, LHO,
Bank Street,
Hyderabad

...Respondent

APPEARANCES:

For the Petitioner : M/s. S. Prasada Rao, C. Bala
Subrahmanyam, K. Jhansi Rani &
K. Bharathi, Advocates

AWARD

This petition under Sec. 2 A (2) of the I.D. Act, 1947 has been filed by Sri Marella Edukondalu, Ex. Messenger of State Bank of India, challenging the order of termination dated 31-3-1997 and for his reinstatement in service with consequential benefits and back wages.

2. The Petitioner has stated that he joined in the services of the Respondent as Messenger in October, 1986 in the Respondent's Organization, Nellore District where he worked upto 31-3-1997 and thereafter he was disengaged and was ordered to stop the work.

3. Petitioner made several representations and also filed Writ petition along with 200 others employees before the Hon'ble High Court of A.P., which was registered as WP.4194/97 and other petitions Nos. 9206/97, 5087/97 etc., which were disposed off by a common order by Hon'ble Justice Somasekhara of Hon'ble High Court against which management has filed Writ Appeal No.86/98 which was decided and ordered that Petitioner should approach Labour Court/Industrial Tribunal. Against the order of Writ Appeal SLP was filed by the Petitioner and other employees, which was dismissed by the Hon'ble Supreme Court confirming the order of the Writ Appeal.

4. Petitioner is a member of Scheduled Caste and belongs to a poor family. There was agreement between the employees union and the management in which it was agreed that those employees who have completed minimum of 30 days in any calendar month or 75 days in aggregate in 36 calendar months will be called for interview by virtue of settlement dated 17-8-1984, thereafter another settlement was also entered into between the employees and management on 17-7-1989, subsequent agreement dated 16-10-1988, 27-10-1988, followed by agreement dated 26-4-1994 was also entered into between parties, in all the settlements it was agreed that the employees who have put in a certain number of days will be considered for absorption and a panel will be prepared of those employees. The Petitioner's name find place in the list prepared by management but Petitioner was not absorbed, not only that Justice Sri Somasekhara of Hon'ble High Court of A.P., by order dated 1-1-1998 directed Respondent bank to absorb all the Petitioners which was not complied by the management. The management challenged that order which was quashed by Appellate Authority and order of the Appellate Authority amended by Hon'ble Supreme Court hence, the Petitioner has filed this present petition.

5. Counter has been filed by the Respondent management. Management has also admitted that several agreements as mentioned by the Petitioner have been entered into between the management and the

union and the employees were categories into three categories:—

(A) Those, who have completed 240 days of temporary service in 12 calendar months or less after 1-7-1975.

(B) Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

(C) Those, who have completed minimum of 30 days aggregate temporary service in any calendar year after 1-7-1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

6. As per terms of the agreement dated February, 1997 the last date of the panel was to expire on 31-3-1997. The Petitioner was not found suitable in the order of seniority, he was not considered for absorption. Petitioner was engaged intermittently when the regular employees were not available for sweeping and cleaning of the office he was not regularly appointed employee nor he was sponsored by the Employment Exchange as such, no legal right is vested in the Petitioner for being absorbed in the bank's services. Petition is devoid of merit and deserves to be dismissed.

7. Parties were directed to file their evidence. Petitioner Sri Marella Edukondalu has appeared, examined in chief and presented himself for cross examination. He has filed xerox copies of transfer certificate and service certificate allegedly issued by State Bank of India, Kaligiri branch. Management has filed affidavit of Sri R. Venkateshwar Rao, Chief Manager (HR), State Bank of India, Tirupathi who has marked 12 documents Ex. M1 to M12. He appeared for cross examination and has been cross examined at length.

8. I have heard counsels for both the parties at length and I have gone through the evidence on record. It has been argued by the Learned Counsel for the workman that workman was engaged in the year 1986 and he has worked upto March, 1997. In proof of his claim he has filed attendance statement Ex. W2 to show that Sri Marella Edukondalu worked for 446 days from 1986 to 1990. On the basis of this document the argument of Learned Counsel for the Petitioner is that Petitioner has worked for 446 days altogether under the management of Respondent, thus, he is entitled for absorption in the bank's service as per the agreement entered into between the bank management and the employees union. The Learned Counsel for the Petitioner further argued that the Petitioner has put in total number of 446 days though intermittently but under the terms and conditions of the agreement entered into between the employees union and the management. Petitioner's case is covered under category 'C' of

categorization of the employees as such, the Petitioner has become entitled for absorption.

9. Against the above argument of Learned Counsel for the Petitioner, Learned Counsel for the Respondent has argued that even if the Petitioner has put in 446 days service in total and he comes within the category 'C' employees, it is not vested right of the Petitioner to be absorbed in the services of the bank unless other formalities and rules of the absorption has been fulfilled by the Petitioner. The Petitioner was called for interview as per his own document but whether he was empanelled after the interview or not has not been proved by him. Moreover, there is another categories 'A and B' of the employees, who put in 240 days of temporary service in 12 calendar months and who put in 270 days aggregate service in 36 calendar months, their case was to be considered on priority basis in comparison to those placed in category 'C' of the employees. It was the duty of the Petitioner to prove that anybody or any person junior to him or who has put in less number of working days in comparison to the Petitioner was absorbed by the bank. Secondly, the Petitioner has not been able to prove that what was the outcome of the result of the interview whether he was empanelled after the interview or not has not been proved by the Petitioner as such, the bank has not committed any illegality in disengaging the Petitioner who has worked intermittently when the work was available with the bank. Therefore, the action of the management is neither illegal nor arbitrary nor violative of the principles of natural justice and Petitioner is not entitled for any relief.

10. In light of the above argument of the Learned Counsel for the parties this Tribunal has to consider following points for adjudication:—

(I) Whether the action of the management in disengaging the Petitioner from service is illegal, arbitrary and violative of principles of natural justice?

(II) To what relief if any, the Petitioner is entitled for?

11. Point No. (I): It is undisputed fact that the Petitioner has worked in the bank when the work was available with the management. The Petitioner in his cross examination has admitted that he worked for a period of 446 days intermittently. Though Petitioner states that he has worked for 446 days, but at the same time he has admitted that he worked with the bank whenever work was available and given by the Manager. The Petitioner alleged to have filed xerox copy of the service certificate or number of working days he put in as temporary messenger with the bank management. This certificate has not been proved by the Petitioner workman. Even if it is presumed that Petitioner has worked for 446 days that

itself does not confer any right on Petitioner for absorption in the bank's services. Learned Counsel for the Petitioner has relied upon case law of Hon'ble High Court of Karnataka reported in 2005 (I) LLJ page 126 in the matter of State Bank of India, Bangalore Vs. T. N. Jaya Ram wherein Hon'ble Karnataka High Court has held that, "the claim of those employees who has not completed 30 days in one calendar year are not entitled for regularization." However, the Petitioner workman has not been able to place before this Tribunal any such rule, which authorizes for the regularization of those employees who has put in more than 200 days of the service in 36 calendar months. There is agreement between the parties under which employees were given option to apply for regularization and it was agreed between the union and the management that panel will be prepared on the basis of the interview and such panel will be remained enforced for a particular period and existing vacancies will be filled out of the candidates listed in the panel. Petitioner of this case has not placed any paper to prove that he was selected by the management or he was empanelled for absorption in the service. Unless, the Petitioner was empanelled for absorption he cannot claim right of absorption. The case law cited by Learned Counsel for the Petitioner reported in 2005 (I) LLJ page 126 is not applicable in the present case. In the same way the case law reported in 2003 (I) LLJ page 219 is also not applicable in the present case. The bank's service is a public utility service and there is procedure for recruitment to the banking services. Petitioner has not been able to prove that he was selected by the empanelment committee for absorption in the bank's service. He was not sponsored by the Employment Exchange as well. As such, in view of the agreement of 1997 in which the empanelled candidates were to be absorbed by end of the March, 1997, since name of the Petitioner does not find place in the empanelled list the disengagement of the Petitioner is neither bad in the eye of law nor against the terms of the agreement entered into by the bank employees and the bank management. Since Petitioner was not selected by the empanelment committee he was not sponsored by the Employment Exchange he was engaged by the Manager when the work was available in the branch he has no right or authority for absorption as he was not appointed according to the recruitment rules of the public utility services as held by Hon'ble Supreme Court of India in Umadevi Vs. State of Karnataka. Point No.1 is decided accordingly.

12. Point No. (II): Petitioner has not been able to prove that his disengagement from service was illegal, arbitrary or against principles of natural justice. Petitioner is not entitled for any relief claimed by him. Point No. (II) is decided accordingly.

13. In view of the above discussion, this Tribunal is of the opinion that petition deserves to be dismissed and it is dismissed, hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 7th day of April, 2011.

VEDPRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner WW I: Sri Marella Edukondalu

Witnesses examined for the Respondent MW I: Sri R. Venkateshwar Rao

Documents marked for the Petitioner

- Ex.W1: Copy of transfer certificate
Ex.W2: Copy of service certificate issued by Branch Manager, State Bank of India, Kaligiri

Documents marked for the Respondent

- Ex.M1: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 17-11-1987
Ex.M2: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 16-7-1988
Ex.M3: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 27-10-1988
Ex.M4: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 9-1-1991
Ex.M5: Copy of minutes of conciliation proceedings held before RLC(C), Hyderabad dt. 9-6-95.
Ex.M6: Copy of settlement signed between All India SBI Staff Federation and SBI 30-7-1996
Ex.M7: Copy of memorandum of understanding dt. 27-2-1997
Ex.M8: Copy of statements giving the particulars of 1989 Messsengerial panel
Ex.M9: Copy of statements giving the particulars of 1989 Non-Messsengerial panel
Ex.M10: Copy of statement of 1992 panel
Ex.M11: Copy of judgement of Hon'ble High Court in WA No, 86/98 dt. 1-5-1998
Ex.M12: Copy of judgement in SLP No. 11866-11888 of 1998 dt. 10-8-98.

नई दिल्ली, 22 सितम्बर, 2011

का.आ. 2922.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 11/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-12025/01/2011-आई आर(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 22nd September, 2011

S.O. 2922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, received by the Central Government on 19-09-2011.

[No. L-12025/01/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Shri Ved Prakash Gaur, Presiding Officer

Dated, the 7th day of April, 2011

Industrial Dispute L. C. No. 11/2007

Between:

Sri Yannam Santhaiah,
S/o Ramaiah,
R/o Bonchapalli Village,
Lekkalavari Palli Post,
Mydukur Mandalam,
Cuddapah District

...Petitioner

AND

The Chief General Manager (Personal),
State Bank of India, LHO,
Bank Street, Hyderabad

...Respondent

APPEARANCES:

For the Petitioner : M/s. S. Prasada Rao & C. Bala
Subrahmanyam, Advocates

For the Respondent : M/s. B.G. Ravindra Reddy,
Pasham Srinivasulu and
Y. Ranjeeth Reddy, Advocates

AWARD

This petition under Sec. 2 A (2) of the I.D. Act, 1947 has been filed by Sri Yannam Santhaiah, Ex. Messenger of State Bank of India, challenging the order of termination dated 31-3-1997 and for his reinstatement in service with consequential benefits and back wages.

2. The Petitioner has stated that he joined in the services of the Respondent as Messenger in July, 1975 in the Respondent's organization, Onipenta branch, Cuddapah District where he worked upto 31-3-1997 and thereafter he was disengaged and was ordered to stop the work.

3. Petitioner made several representations and also filed Writ petition along with 200 others employees before the Hon'ble High Court of A.P., which was registered as WP-4194/97 and other petitions Nos.9206/97, 5087/97 etc., which were disposed of by a common order by Hon'ble Justice Somasekhara of Hon'ble High Court against which management has filed Writ Appeal No. 86/98 which was decided and ordered that Petitioner should approach Labour Court/Industrial Tribunal. Against the order of Writ appeal SLP was filed by the Petitioner and other employees, which was dismissed by the Hon'ble Supreme Court confirming the order of the Writ Appeal.

4. Petitioner is a member of scheduled caste and belongs to a poor family. There was agreement between the employees union and the management in which it was agreed that those employees who have completed minimum of 30 days in any calendar month or 75 days in aggregate in 36 calendar months will be called for interview by virtue of settlement dated 17-8-1984, thereafter another settlement was also entered into between the employees and management on 17-7-1989, subsequent agreement dated 16-10-1988, 27-10-1988, followed by agreement dated 26-4-1994 was also entered into between parties, in all the settlements it was agreed that the employees who have put in a certain number of days will be considered for absorption and a panel will be prepared of those employees. The Petitioner's name find place in the list prepared by management but Petitioner was not absorbed, not only that Justice Sri Somasekhara of Hon'ble High Court of A.P., by order dated 1-1-1998 directed Respondent bank to absorb all the Petitioners which was not complied by the management. The management challenged that order which was quashed by Appellate Authority and order of the Appellate Authority amended by Hon'ble Supreme Court hence, the Petitioner has filed this present petition.

5. Counter has been filed by the Respondent management. Management has also admitted that several agreements as mentioned by the Petitioner have been entered into between the management and the union and the employees were categories into three categories:—

(A) Those, who have completed 240 days of temporary service in 12 calendar months or less after 1-7-1975.

(B) Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

(C) Those, who have completed minimum of 30 days aggregate temporary service in any calendar year

after 1-7-1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

6. As per terms of the agreement dated February, 1997 the last date of the panel was to expire on 31-3-1997. The Petitioner was not found suitable in the order of seniority, he was not considered for absorption. Petitioner was engaged intermittently when the regular employees were not available for sweeping and cleaning of the office he was not regularly appointed employee nor he was sponsored by the Employment Exchange as such, no legal right is vested in the Petitioner for being absorbed in the bank's services. Petition is devoid of merit and deserves to be dismissed.

7. Parties were directed to file their evidence. Petitioner Sri Yannam Santhaiah has appeared, examined in chief and presented himself for cross examination. He has filed xerox copies of 7 documents call letter for interview. (allegedly original) service certificate showing temporary service for 199 days allegedly issued by Branch Manager, Onipenta, SBI service certificate-cum-introduction letter for 199 days. (allegedly original) service certificate for 181 days. (allegedly original) transfer certificate and SSC marks memo. Management has filed affidavit of Sri R. Venkateswar Rao, Chief Manager (HR), State Bank of India, Tirupathi who has marked 12 documents Ex.M1 to M12. He appeared for cross examination and has been cross examined at length.

8. I have heard counsels for both the parties at length and I have gone through the evidence on record. It has been argued by the Learned Counsel for the workman that workman was engaged in the year 1975 and he has worked upto the year 1997. In proof of his claim he has filed service certificates Ex. W2 to W 4 to show that Sri Yannam Santhaiah worked for 380 days from 1988 to 1997. On the basis of these documents the argument of Learned Counsel for the Petitioner is that Petitioner has worked for 380 days altogether under the management of Respondent, thus, he is entitled for absorption in the bank's service as per the agreement entered into between the bank management and the employees union. The Learned Counsel for the Petitioner further argued that the Petitioner has put in total number of 380 days though intermittently but under the terms and conditions of the agreement entered into between the employees union and the management. Petitioner's case is covered under category 'C' of categorization of the employees as such, the Petitioner has become entitled for absorption.

9. Against the above argument of Learned Counsel for the Petitioner, Learned Counsel for the Respondent has argued that even if the Petitioner has put in 380 days service in total and he comes within the category 'C' employees. it is not vested right of the Petitioner to be absorbed in the services of the bank unless other

formalities and rules of the absorption has been fulfilled by the Petitioner. The Petitioner was called for interview as per his own document but whether he was empanelled after the interview or not has not been proved by him. Moreover, there is other categories 'A & B' of the employees, who put in 240 days of temporary service in 12 calendar months and who put in 270 days aggregate service in 36 calendar months, their case was to be considered on priority basis in comparison to those placed in category 'C' of the employees. It was the duty of the Petitioner to prove that anybody or any person junior to him or who has put in less number of working days in comparison to the Petitioner was absorbed by the bank. Secondly, the Petitioner has not been able to prove that what was the outcome of the result of the interview whether he was empanelled after the interview or not has not been proved by the Petitioner as such, the bank has not committed any illegality in disengaging the Petitioner who has worked intermittently when the work was available with the bank. Therefore, the action of the management is neither illegal nor arbitrary nor violative of the principles of natural justice and Petitioner is not entitled for any relief.

10. In light of the above argument of the Learned Counsel for the parties this Tribunal has to consider following points for adjudication :—

(I) Whether the action of the management in disengaging the Petitioner from service is illegal, arbitrary and violative of principles of natural justice ?

(II) To what relief if any, the Petitioner is entitled for ?

11. Point No. (I): It is undisputed fact that the Petitioner has worked in the bank when the work was available with the management. The Petitioner in his cross examination has admitted that he worked for a period of 380 days intermittently. Though Petitioner states that he has worked for 380 days, but at the same time he has admitted that he worked with the bank whenever work was available and given by the Manager. The Petitioner alleged to have filed xerox copy of the service certificate or number of working days he put in as temporary messenger with the bank management. These certificates have not been proved by the Petitioner workman. Even if it is presumed that Petitioner has worked for 380 days that itself does not confer any right on Petitioner for absorption in the bank's services. Learned Counsel for the Petitioner has relied upon case law of Hon'ble High Court of Karnataka reported in 2005 (I) LLJ page 126 in the matter of State Bank of India, Bangalore Vs. T. N. Jaya Ram wherein Hon 'ble Karnataka High Court has held that, "the claim of those employees who has not completed 30 days in one calendar year are not entitled for regularization." However, the Petitioner workman has not been able to

place before this Tribunal any such rule, which authorizes for the regularization of those employees who has put in more than 200 days of the service in 36 calendar months. There is agreement between the parties under which employees were given option to apply for regularization and it was agreed between the union and the management that panel will be prepared on the basis of the interview and such panel will be remained enforced for a particular period and existing vacancies will be filled out of the candidates listed in the panel. Petitioner of this case has not placed any paper to prove that he was selected by the management or he was empanelled for absorption in the service. Unless, the Petitioner was empanelled for absorption he can not claim right of absorption. The case law cited by Learned Counsel for the Petitioner reported in 2005 (I) LLJ page 126 is not applicable in the present case. In the same way the case law reported in 2003 (I) LLJ page 219 is also not applicable in the present case. The bank's service is a public utility service and there is procedure for recruitment to the banking services. Petitioner has not been able to prove that he was selected by the empanelment committee for absorption in the bank's service. He was not sponsored by the Employment Exchange as well. As such, in view of the agreement of 1997 in which the empanelled candidates were to be absorbed by end of the March, 1997, since name of the Petitioner does not find place in the empanelled list the disengagement of the Petitioner is neither bad in the eye of law nor against the terms of the agreement entered into by the bank employees and the bank management. Since Petitioner was not selected by the empanelment committee he was not sponsored by the Employment Exchange he was engaged by the Manager when the work was available in the branch he has no right or authority for absorption as he was not appointed according to the recruitment rules of the public utility services as held by Hon'ble Supreme Court of India in Umadevi Vs. State of Karnataka. Point No. 1 is decided accordingly.

12. Point No. (II): Petitioner has not been able to prove that his disengagement from service was illegal, arbitrary or against principles of natural justice. Petitioner is not entitled for any relief claimed by him. Point No. (II) is decided accordingly.

13. In view of the above discussion, this Tribunal is of the opinion that petition deserves to be dismissed and it is dismissed, hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 7th day of April, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of Evidence

Witnesses examined for the : WW 1: Sri Yammam Santhaiah
Petitioner

Witnesses examined for the : MW1: Sri R. Venkateswar
Respondent Rao

Documents marked for the Petitioner

- Ex.W1: Copy of transfer certificate
- Ex.W2: Statement showing particulars of temporary service of Petitioner
- Ex.W3: Statement showing particulars of temporary service of Petitioner
- Ex.W4: Statement showing particulars of temporary service of Petitioner
- Ex.W5: Transfer certificate
- Ex.W6: SSC marks memo
- Ex.W7: Copy of caste certificate

Documents marked for the Respondent

- Ex.M1: Copy of settlement signed between All India SBI Staff Federation and SBI dtd. 17-11-1987
- Ex.M2: Copy of settlement signed between All India SBI Staff Federation and SBI dtd. 16-7-1988
- Ex.M3: Copy of settlement signed between All India SBI Staff Federation and SBI dtd. 27-10-1988
- Ex.M4: Copy of settlement signed between All India SBI Staff Federation and SBI dtd. 9-1-1991
- Ex.M5: Copy of minutes of conciliation proceedings held before RLC(C), Hyderabad dt. 9-6-95
- Ex.M6: Copy of settlement signed between All India SBI Staff Federation and SBI 30-7-1996
- Ex.M7: Copy of memorandum of understanding dtd. 27-2-1997
- Ex.M8: Copy of statements giving the particulars of 1989 Messsengerial panel
- Ex.M9: Copy of statements giving the particulars of 1989 Non-Messsengerial panel
- Ex.M10: Copy of statement of 1992 panel
- Ex.M11: Copy of judgement of Hon'ble High Court in WA No.86/98 dt. 1-5-1998
- Ex.M12: Copy of judgement in SLP No.11866-11888 of 1998 dtd. 10-8-98.

नई दिल्ली, 22 सितम्बर, 2011

का.आ. 2923.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 136/2006)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-12025/01/2011-आई आर(बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 22nd September, 2011

S.O. 2923.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 136/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, received by the Central Government on 19-09-2011.

[No. L-12025/01/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Shri Ved Prakash Gaur, Presiding Officer.

Dated the 7th day of April, 2011.

Industrial Dispute L. C. No. 136/2006

Between :

Sri Nanda Malyadri,
S/o Thirupal,
R/o Abbasahabpeta Village,
Gudipadu Post,
A.S. Peta Mandalam,
Nellore District.

...Petitioner

AND

The Chief General Manager (Personal),
State Bank of India, LHO,
Bank Street, Hyderabad.

...Respondent

APPEARANCES:

For the Petitioner : M/s. S. Prasada Rao, C. Bala
Subrahmanyam, K. Jhansi Rani
and K. Bharathi, Advocates

For the Respondent: M/s. B.G. Ravindra Reddy &
B.V. Chandra Sekhar, Advocates

AWARD

This petition under Sec.2 A (2) of the I.D. Act, 1947 has been filed by Sri Nanda Malyadri, Ex. Messenger of State Bank of India, challenging the order of termination dated 31-3-1997 and for his

reinstatement in service with consequential benefits and back wages.

2. The Petitioner has stated that he joined in the services of the Respondent as Messenger in October, 1987 in the Respondent's organization, Nellore District where he worked upto 31-3-1997 and thereafter he was disengaged and was ordered to stop the work.

3. Petitioner made several representations and also filed Writ petition along with 200 others employees before the Hon'ble High Court of A.P., which was registered as WP 4194/97 and other petitions Nos.9206/97, 5087/97 etc., which were disposed off by a common order by Hon'ble Justice Somasekhara of Hon'ble High Court against which management has filed Writ Appeal No.86/98 which was decided and ordered that Petitioner should approach Labour Court/Industrial Tribunal. Against the order of Writ appeal SLP was filed by the Petitioner and other employees, which was dismissed by the Hon'ble Supreme Court confirming the order of the Writ Appeal.

4. Petitioner is a member of scheduled caste and belongs to a poor family. There was agreement between the employees union and the management in which it was agreed that those employees who have completed minimum of 30 days in any calendar month or 75 days in aggregate in 36 calendar months will be called for interview by virtue of settlement dated 17-8-1984, thereafter another settlement was also entered into between the employees and management on 17-7-1989, subsequent agreement dated 16-10-1988, 27-10-1988, followed by agreement dated 26-4-1994 was also entered into between parties, in all the settlements it was agreed that the employees who have put in a certain number of days will be considered for absorption and a panel will be prepared of those employees. The Petitioner's name find place in the list prepared by management but Petitioner was not absorbed, not only that Justice Sri Somasekhara of Hon'ble High Court of A.P., by order dated 1-1-1998 directed Respondent bank to absorb all the Petitioners which was not complied by the management. The management challenged that order which was quashed by Appellate Authority and order of the Appellate Authority amended by Hon'ble Supreme Court hence, the Petitioner has filed this present petition.

5. Counter has been filed by the Respondent management. Management has also admitted that several agreements as mentioned by the Petitioner have been entered into between the management and the union and the employees were categories into three categories:—

(A) Those, who have completed 240 days of temporary service in 12 calendar months or less after 1-7-1975

(B) Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975

(C) Those, who have completed minimum of 30 days aggregate temporary service in any calendar year after 1-7-1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

6. As per terms of the agreement dated February, 1997 the last date of the panel was to expire on 31-3-1997. The Petitioner was not found suitable in the order of seniority, he was not considered for absorption. Petitioner was engaged intermittently when the regular employees were not available for sweeping and cleaning of the office he was not regularly appointed employee nor he was sponsored by the Employment Exchange as such, no legal right is vested in the Petitioner for being absorbed in the bank's services. Petition is devoid of merit and deserves to be dismissed.

7. Parties were directed to file their evidence. Petitioner Sri Nanda Malyadri has appeared, examined in chief and presented himself for cross-examination. He has filed xerox copies of three documents transfer certificate, service certificate allegedly issued by State Bank of India, from 1987 to 1997 for 498 days and service certificate-cum-introduction letter. Management has filed affidavit of Sri R. Venkateshwar Rao, Chief Manager (HR), State Bank of India, Tirupathi who has marked 12 documents Ex.M1 to M12. He appeared for cross-examination and has been cross-examined at length.

8. I have heard counsels for both the parties at length and I have gone through the evidence on record. It has been argued by the Learned Counsel for the workman that workman was engaged in the year 1986 and he has worked upto March, 1997. In proof of his claim he has filed attendance statement Ex. W2 to show that Sri Nanda Malyadri worked for 498 days from 1987 to 1997. On the basis of this document the argument of Learned Counsel for the Petitioner is that Petitioner has worked for 498 days altogether under the management of Respondent, thus, he is entitled for absorption in the bank's service as per the agreement entered into between the bank management and the employees union. The Learned Counsel for the Petitioner further argued that the Petitioner has put in total number of 498 days though intermittently but under the terms and conditions of the agreement entered into between the employees union and the management. Petitioner's case is covered under category 'C' of categorization of the employees as such, the Petitioner has become entitled for absorption.

9. Against the above argument of Learned Counsel for the Petitioner, Learned Counsel for the Respondent has argued that even if the Petitioner has put in 498 days service in total and he comes within the category 'C' employees, it is not vested right of the Petitioner to be absorbed in the services of the bank unless other formalities and rules of the absorption has been fulfilled

by the Petitioner. The Petitioner was called for interview as per his own document but whether he was empanelled after the interview or not has not been proved by him. More over, there is another categories 'A & B' of the employees, who put in 240 days of temporary service in 12 calendar months and who put in 270 days aggregate service in 36 calendar months, their case was to be considered on priority basis in comparison to those placed in category 'C' of the employees. It was the duty of the Petitioner to prove that anybody or any person junior to him or who has put in less number of working days in comparison to the Petitioner was absorbed by the bank. Secondly, the Petitioner has not been able to prove that what was the outcome of the result of the interview whether he was empanelled after the interview or not has not been proved by the Petitioner as such, the bank has not committed any illegality in disengaging the Petitioner who has worked intermittently when the work was available with the bank. Therefore, the action of the management is neither illegal nor arbitrary nor violative of the principles of natural justice and Petitioner is not entitled for any relief.

10. In light of the above argument of the Learned Counsel for the parties this Tribunal has to consider following points for adjudication :—

(I) Whether the action of the management in disengaging the Petitioner from service is illegal, arbitrary and violative of principles of natural justice ?

(II) To what relief if any, the Petitioner is entitled for ?

11. **Point No. (I):** It is undisputed fact that the Petitioner has worked in the bank when the work was available with the management. The Petitioner in his cross-examination has admitted that he worked for a period of 498 days intermittently. Though Petitioner states that he has worked for 498 days, but at the same time he has admitted that he worked with the bank whenever work was available and given by the Manager. The Petitioner alleged to have filed xerox copy of the service certificate or number of working days he put in as temporary messenger with the bank management. This certificate has not been proved by the Petitioner workman. Even if it is presumed that Petitioner has worked for 498 days that itself does not confer any right on Petitioner for absorption in the bank's services. Learned Counsel for the Petitioner has relied upon case law of Hon'ble High Court of Karnataka reported in 2005 (1) LLJ page 126 in the matter of State Bank of India, Bangalore Vs. T. N. Jaya Ram wherein Hon'ble Karnataka High Court has held that, "the claim of those employees who has not completed 30 days in one calendar year are not entitled for regularization." However, the Petitioner workman has not been able to place before this Tribunal any such rule, which authorizes for the

regularization of those employees who has put in more than 200 days of the service in 36 calendar months. There is agreement between the parties under which employees were given option to apply for regularization and it was agreed between the union and the management that panel will be prepared on the basis of the interview and such panel will be remained enforced for a particular period and existing vacancies will be filled out of the candidates listed in the panel. Petitioner of this case has not placed any paper to prove that he was selected by the management or he was empanelled for absorption in the service. Unless, the Petitioner was empanelled for absorption he can not claim right of absorption. The case law cited by Learned Counsel for the Petitioner reported in 2005 (1) LLJ page 126 is not applicable in the present case. In the same way the case law reported in 2003 (1) LLJ page 219 is also not applicable in the present case. The bank's service is a public utility service and there is procedure for recruitment to the banking services. Petitioner has not been able to prove that he was selected by the empanelment committee for absorption in the bank's service. He was not sponsored by the Employment Exchange as well. As such, in view of the agreement of 1997 in which the empanelled candidates were to be absorbed by end of the March, 1997, since name of the Petitioner does not find place in the empanelled list the disengagement of the Petitioner is neither bad in the eye of law nor against the terms of the agreement entered into by the bank employees and the bank management. Since Petitioner was not selected by the empanelment committee he was not sponsored by the Employment Exchange he was engaged by the Manager when the work was available in the branch he has no right or authority for absorption as he was not appointed according to the recruitment rules of the public utility services as held by Hon'ble Supreme Court of India in Umadevi Vs. State of Karnataka. Point No.1 is decided accordingly.

12. Point No. (II): Petitioner has not been able to prove that his disengagement from service was illegal, arbitrary or against principles of natural justice. Petitioner is not entitled for any relief claimed by him. Point No.(II) is decided accordingly.

13. In view of the above discussion, this Tribunal is of the opinion that petition deserves to be dismissed and it is dismissed, hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 7th day of April, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the : WWI: Sri Nanda Malyadri
Petitioner

Witnesses examined for the : MW 1: Sri R. Venkateshwar
Respondent Rao

Documents marked for the Petitioner

- Ex. W1: Copy of transfer certificate
- Ex. W2: Copy of statement showing particulars of temporary service of Petitioner
- Ex. W3: Copy of service certificate issued by Branch Manager, State Bank of India, Kaligiri

Documents marked for the Respondent

- Ex. M1: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 17-11-1987
- Ex. M2: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 16-7-1988
- Ex. M3: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 27-10-1988
- Ex. M4: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 9-1-1991
- Ex. M5: Copy of minutes of conciliation proceedings held before RLC(C), Hyderabad dt. 9-6-95
- Ex. M6: Copy of settlement signed between All India SBI Staff Federation and SBI 30-7-1996
- Ex. M7: Copy of memorandum of understanding dt. 27-2-1997
- Ex. M8: Copy of statements giving the particulars of 1989 Messsengerial panel
- Ex. M9: Copy of statements giving the particulars of 1989 Non-Messsengerial panel
- Ex. M10: Copy of statement of 1992 panel
- Ex. M11: Copy of judgement of Hon'ble High Court in WA No.86/98 dt. 1-5-1998
- Ex. M12: Copy of judgement in SLP No.11866-11888 of 1998 dt. 10-8-98.

नई दिल्ली, 22 सितम्बर, 2011

का.आ. 2924.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 134/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2011 को प्राप्त हुआ था।

[सं. एल-12025/01/2011-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 22nd September, 2011

S.O. 2924.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 134/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, received by the Central Government on 19-9-2011.

[No. L-12025/01/2011-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present: - SHRI VED PRAKASH GAUR, Presiding Officer

Dated the 7th day of April, 2011

INDUSTRIAL DISPUTE L.C. No. 134/2006

Between:

Sri Avuladoddi Purnaiah,
S/o Late Venkataiah,
R/o Kuravari Street, Kanchekacherla
Krishna District. ...Petitioner

AND

The Chief General Manager (Personnel),
State Bank of India, LHO,
Bank Street, Hyderabad. ...Respondent

APPEARANCES:

For the Petitioner : M/s. S. Prasada Rao, C. Bala
Subrahmanyam, & K. Bharathi,
Advocates

For the Respondent : Smt B. Lalitha Kumari, Advocate

AWARD

This petition under Sec. 2 A (2) of the I.D. Act, 1947 has been filed by Sri Avuladoddi Purnaiah, Ex. Messenger of State Bank of India, challenging the order of termination dated 31-3-1997 and for his reinstatement in service with consequential benefits and back wages.

2. The Petitioner has stated that he is a member of scheduled caste and he joined in the services of the Respondent as Messenger-cum- water boy in November, 1983 in State Bank of India, Krishna District and he worked up to 31-3-1997, thereafter he was disengaged and was ordered to stop the work.

3. Petitioner made several representations and also filed Writ petition along with 200 others employees before the Hon'ble High Court of A.P., which was registered as WP. 4194/97 and other petitions Nos. 9206/97, 5087/97 etc., which were disposed off by a common order by Hon'ble Justice Somasekhar of Hon'ble High Court against which management has filed Writ Appeal No. 86/98 which was decided and ordered that Petitioner should approach Labour Court/Industrial Tribunal. Against the order of Writ Appeal SLP was filed by the Petitioner and other employees, which was dismissed by the Hon'ble Supreme Court confirming the order of the Writ Appeal.

4. There was agreement between the employees union and the management in which it was agreed that those employees who have completed minimum of 30 days in any calendar month or 75 days in aggregate in 36 calendar months will be called for interview by virtue of settlement dated 17-8-1984, thereafter another settlement was also entered into between the employees and management on 17-7-1989, subsequent agreement dated 16-10-1988, 27-10-1988, followed by agreement dated 26-4-1994 was also entered into between parties, in all the settlements it was agreed that the employees who have put in a certain number of days will be considered for absorption, and a panel will be prepared of those employees. The Petitioner's name find place in the list prepared by management but Petitioner was not absorbed, not only that Justice Sri Somasekhar of Hon'ble High Court of A.P., by order dated 1-1-1998 directed Respondent bank to absorb all the Petitioners which was not complied by the management. The management challenged that order which was quashed by Appellate Authority and order of the Appellate Authority amended by Hon'ble Supreme Court hence, the Petitioner has filed this present petition.

5. Counter has been filed by the Respondent management. Management has also admitted that several agreements as mentioned by the Petitioner have been entered into between the management and the union and the employees were categorized into three categories:—

(A) Those, who have completed 240 days of temporary service in 12 calendar months or less after 1-7-1975.

(B) Those, who have completed 270 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

(C) Those, who have completed minimum of 30 days aggregate temporary service in any calendar year after 1-7-1975 or minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 1-7-1975.

6. As per terms of the agreement dated February, 1997 the last date of the panel was to expire on 31-3-1997.

The Petitioner was not found suitable in the order of seniority, he was not considered for absorption. Petitioner was engaged intermittently when the regular employees were not available for sweeping and cleaning of the office he was not regularly appointed employee nor he was sponsored by the Employment Exchange as such, no legal right is vested in the Petitioner for being absorbed in the bank's services. Petition is devoid of merit and deserves to be dismissed.

7. Parties were directed to file their evidence. Petitioner Sri Avuladoddi Purnaiah has appeared, examined in chief and presented himself for cross examination. He has filed xerox copies documents viz., interview call letter dated 3-8-1989 Ex.W1, Certificate of temporary service allegedly issued by State Bank of India for 99 days Ex. W2, Certificate of temporary service allegedly issued by State Bank of India for 646 days Ex.W3, Certificate of temporary service allegedly issued by State Bank of India for 99 days Ex.W4, community certificate Ex.W5, record sheet Ex.W6. Management has filed affidavit of P. Madhu Mohan Patro, Chief Manager(HR), State Bank of India, Vijayawada who has marked 12 documents Ex.M1 to M12. He appeared for cross examination and has been cross examined at length.

8. I have heard counsels for both the parties at length and I have gone through the evidence on record. It has been argued by the Learned Counsel for the workman that workman was engaged in the year 1983 and he has worked upto March, 1997. In proof of his claim he has filed particulars of temporary service Ex. W2 and W3 to show that Sri Avuladoddi Purnaiah worked for 21 days in the year 1983, 36 days in the year 1984 and 42 days in the year 1985 in total for 99 days vide Ex.W2, like wise vide Ex. W3 he worked for 24 days, 116 days, 182 days, 2 days, 158 days, 138 days and 26 days respectively in the years 1991 to 1997, in total 646 days. On the basis of these documents the argument of Learned Counsel for the Petitioner is that Petitioner has worked for 745 days altogether under the management of Respondent, thus, he is entitled for absorption in the bank's service as per the agreement entered into between the bank management and the employees union. The Learned Counsel for the Petitioner further argued that the Petitioner has put in total number of 745 days though intermittently but under the terms and conditions of the agreement entered into between the employees union and the management. Petitioner's case is covered under category 'C' of categorization of the employees as such, the Petitioner has become entitled for absorption.

9. Against the above argument of Learned Counsel for the Petitioner, Learned Counsel for the Respondent has argued that even if the Petitioner has put in 745 days service in total and he comes within the category 'C' employees, it is not vested right of the Petitioner to be

absorbed in the services of the bank unless other formalities and rules of the absorption has been fulfilled by the Petitioner. The Petitioner was called for interview as per his own document but whether he was empanelled after the interview or not has not been proved by him. Moreover, there is another categories 'A & B' of the employees, who put in 240 days of temporary service in 12 calendar months and who put in 270 days aggregate service in 36 calendar months, their case was to be considered on priority basis in comparison to those placed in category 'C' of the employees. It was the duty of the Petitioner to prove that anybody or any person junior to him or who has put in less number of working days in comparison to the Petitioner was absorbed by the bank. Secondly, the Petitioner has not been able to prove that what was the outcome of the result of the interview whether he was empanelled after the interview or not has not been proved by the Petitioner as such, the bank has not committed any illegality in disengaging the Petitioner who has worked intermittently when the work was available with the bank. Therefore, the action of the management is neither illegal nor arbitrary nor violative of the principles of natural justice and Petitioner is not entitled for any relief.

10. In light of the above argument of the Learned Counsel for the parties this Tribunal has to consider following points for adjudication:-

- (I) Whether the action of the management in disengaging the Petitioner from service is illegal, arbitrary and violative of principles of natural justice?
- (II) To what relief if any, the Petitioner is entitled for?

11. Point No. (I): It is undisputed fact that the Petitioner has worked in the bank when the work was available with the management. The Petitioner in his cross examination has admitted that he worked for a period of 745 days intermittently. The Petitioner alleged to have filed xerox copy of the service certificate or number of working days he put in as temporary messenger with the bank management. These certificates have not been proved by the Petitioner workman. Even if it is presumed that Petitioner has worked for 745 days that itself does not confer any right on Petitioner for absorption in the bank's services. Learned Counsel for the Petitioner has relied upon case law of Hon'ble High Court of Karnataka reported in 2005 (I) LLJ page 126 in the matter of State Bank of India, Bangalore Vs. T. N. Jaya Ram wherein Hon'ble Karnataka High Court has held that, "the claim of those employees who has not completed 30 days in one calendar year are not entitled for regularization." However, the Petitioner workman has not been able to place before this Tribunal any such rule, which authorizes for the regularization of those employees who has put in more than 200 days of the service in 36 calendar months. There

is agreement between the parties under which employees were given option to apply for regularization and it was agreed between the union and the management that panel will be prepared on the basis of the interview and such panel will be remained enforced for a particular period and existing vacancies will be filled out of the candidates listed in the panel. Petitioner of this case has not placed any paper to prove that he was selected by the management or he was empanelled for absorption in the service. Unless, the Petitioner was empanelled for absorption he can not claim right of absorption. The case law cited by Learned Counsel for the Petitioner reported in 2005 (I) LLJ page 126 is not applicable in the present case. In the same way the case law reported in 2003 (I) LLJ page 219 is also not applicable in the present case. The bank's service is a public utility service and there is procedure for recruitment to the banking services. Petitioner has not been able to prove that he was selected by the empanelment committee for absorption in the bank's service. He was not sponsored by the Employment Exchange as well. As such, in view of the agreement of 1997 in which the empanelled candidates were to be absorbed by end of the March, 1997, since name of the Petitioner does not find place in the empanelled list the disengagement of the Petitioner is neither bad in the eye of law nor against the terms of the agreement entered into by the bank employees and the bank management. Since Petitioner was not selected by the empanelment committee he was not sponsored by the Employment Exchange he was engaged by the Manager when the work was available in the branch he has no right or authority for absorption as he was not appointed according to the recruitment rules of the public utility services as held by Hon'ble Supreme Court of India in Umadevi Vs. State of Karnataka. Point No.1 is decided accordingly.

12. Point No.(II): Petitioner has not been able to prove that his disengagement from service was illegal, arbitrary or against principles of natural justice. Petitioner is not entitled for any relief claimed by him. Point No.(II) is decided accordingly.

13. In view of the above discussion, this Tribunal is of the opinion that petition deserves to be dismissed and it is dismissed, hence, this award.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 7th day of April, 2011.

VED PRAKASH GAUR, Presiding Officer

Appendix of Evidence

Witnesses examined for the : WWI: Sri A. vuladoddi
Petitioner Purnaiah

Witnesses examined for the : MWI: Sri P. Madhu Mohan
Respondent Patro

Documents marked for the Petitioner

- Ex.W1: Copy of call letter for interview
- Ex.W2: Copy of certificate of temporary service
- Ex.W3: Copy of certificate of temporary service
- Ex.W4: Copy of certificate of temporary service
- Ex.W5: Copy of community certificate

Documents marked for the Respondent

- Ex.M1: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 17-11-1987
- Ex.M2: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 16-7-1988
- Ex.M3: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 27-10-1988
- Ex.M4: Copy of settlement signed between All India SBI Staff Federation and SBI dt. 9-1-1991
- Ex.M5: Copy of minutes of conciliation proceedings held before RLC(C), Hyderabad dt. 9-6-95
- Ex.M6: Copy of settlement signed between All India SBI Staff Federation and SBI 30-7-1996
- Ex.M7: Copy of memorandum of understanding dt. 27-2-1997
- Ex.M8: Copy of statements giving the particulars of 1989 Messsengerial panel
- Ex.M9: Copy of statements giving the particulars of 1989 Non-Messsengerial panel
- Ex.M10: Copy of statement of 1992 panel
- Ex.M11: Copy of judgement of Hon'ble High Court in WA No.86/98 dt. 1-5-1998
- Ex.M12: Copy of judgement in SLP No.11866-11888 of 1998 dt. 10-8-98.

नई दिल्ली, 22 सितम्बर, 2011

का.आ. 2925.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युको बैंक/मै नाथ एंड कं. (ठेकेदार) में स्वपना इलेक्ट्रिक वर्क्स के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 29/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-9-2011 को प्राप्त हुआ था।

[सं. एल-12011/44/2004-आई आर (बी-II)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 22nd September, 2011

S.O. 2925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank M/s. Nath & Co. (Contractor) M/s. Swapna Electric Works and their workman, which was received by the Central Government on 1-9-2011.

[No. L-12011/44/2004-IR (B-II)]

RAMESH SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 29 of 2004

Parties: Employers in relation to the management of UCO Bank

AND

Their workmen

Present: Mr. Justice Manik Mohan Sarkar Presiding Officer

APPEARANCE:

On behalf of the : Mr. Ashish Kumar, Law Officer of the Management Bank.

On behalf of the : Mr. Ashok Panigrahi, Assistant Workmen Secretary of the workmen Union.

State: West Bengal.

Industry: Banking.

Dated: 23rd August, 2011.

AWARD

By Order No. L-12011/44/2004-IR(B-II) dated 19-07-2004 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether there is any relationship of employer and employee between the management of UCO Bank and Sh. S.K. Mubrak Ali, Swapan Chakraborty, Indrajit Mondal, Dipen Mondal, Ashok Kumar Roy and Uttam Kumar Seal working under contractor M/s. M. Nath & Co. and M/s. Swapna Electric Works at UCO Bank, Head Office, Kolkata. If so, whether they are entitled for regularization of their services in UCO Bank? If not, what relief they are entitled to?"

When the case is called out today, Mr. Ashish. Kumar, law Officer of the Bank is present to represent the management Bank. None, however, is present on behalf of the workmen. This date was fixed for taking necessary step by the workmen side as per order dated 11-04-2011. On the last date also no one was present on behalf of the workmen nor any step to that effect was taken. In the order dated 11-04-2011 it is found that one Mr. Ashok Panigrahi, Assistant Secretary of the workmen union appeared on behalf of the workmen and submitted that the WW-1 who was to be cross-examined by the management expired and in his place the workmen side wanted to examine some other witness not listed and he undertook to file application praying for leave to permit such witness together with an affidavit-in-chief of the said witness. But, since then none is appearing for the workman nor any step has been taken in his behalf.

3. On scrutiny of the record it is found that practically the workmen side was very much reluctant and on most of the dates none was present on behalf of the workmen besides once presence on 11-04-2011. In that respect I am of the view that the workmen side is not interested to proceed with the present reference and thus the industrial dispute raised at the time of receipt of the reference, perhaps has faded out. So, this Tribunal presumes that there is no industrial dispute surviving at present. The present reference is thus disposed of with a "No Dispute Award".

An Award is passed accordingly.

Dated, Kolkata,
the 23rd August, 2011.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

नई दिल्ली, 23 सितम्बर, 2011

का.आ. 2926.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए 1382/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-9-2011 को प्राप्त हुआ था।

[सं. एल-40012/221/2000-आई आर(डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 23rd September, 2011

S.O. 2926.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGITA-1382/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the

employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 23-09-2011.

[No. L-40012/221/2000-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Binay Kumar Sinha, Presiding Officer,
CGIT-cum-Labour Court,
Ahmedabad,
Dated 29-08-2011

Reference: CGITA of 1382 of 2004 New

Reference: ITC. 8/2002 (Old)

(1) The General Manager,
Surat Telecom Distt., BSNL,
Narayan Chambers, Varcha Road,
Khand Bazar,
Surat-395003.

(2) Sub Divisional Officer (T)
Valsad, BSNL,
C/o. GMTD Office, Narayan Chambers,
Varcha Road, Khand Bazar,
Surat-395003.

(3) SDE (T), (Bulsar), BSNL,
C/o. GMTD Office, Narayan Chambers,
Varcha Road,
Khand Bazar,
Surat.

(4) A.E. (Phones Ext.) S-II,
BSNL, C/o. GMTD Office,
Narayan Chambers,
Varcha Road,
Khand Bazar,
Surat.

...First Party

And

their workman

Shri Manekalal Shyamlal Morya,
Aaspas Nagar, Plot No. 185, Parvat Gam,
Post-Godhara,
Tal-Chorasi, Dist.-Surat
C/o. Secretary,
Association of Railway and Post,
Employees, 15, Shashi Apartment,
Opposite Aunjali Cinema, Vasna Road,
Ahmedabad (Gujarat)-380007

...Second Party.

For the first party : Shri N.K. Trivedi, Advocate

For the Second Party workman : Shri R.C. Pathak,
Advocate

AWARD

A dispute arose between the employer in relation to Management of General Manager Telecom, Surat and their workman Shri Manekalal Shyamlal Morya and on failure of efforts of conciliation, the conciliation officer sent failure report to the appropriate authority which followed by sending this reference for adjudication by order of the appropriate Government, the Government of India, Ministry of Labour & Employment/Shram Shakti Bhavan, Rafi Marg, New Delhi-110001, by-its order No. L- 40012/221/ 2000-IR (DU) dated 06-03-2002, in exercise of power conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947, the terms of reference was sent for adjudication by the Industrial Tribunal, Ahmedabad. Subsequently by modified order dated 02-05-2002 the proceedings in relation to the aforesaid dispute pending before the Industrial Tribunal-cum-Labour Court, Ahmedabad was withdrawn and transferred for adjudication to the Presiding Officer, Industrial Tribunal-cum-Labour Court, Surat. Lastly the record was transferred to this Tribunal by the order dated 19-10-2010 of the Ministry of Labour & Employment, New Delhi.

The Terms of Reference as per Schedule is as Follows

"Whether the action of the management of General Manager Telecom, Surat Distt., and its other officers in allegedly terminating the service of the workman Manekalal Shyamlal Morya casual labour w.e.f. 3-5-1987 is legal, proper and justified? If not, to what reliefs the workman is entitle and from which date and what other directions are necessary in the matter?"

(2) In response to the notices to the party the second party workman and the first party management appeared in the case and filed respective statement of claim and written statement.

(3) The case of the second party workman as per his statement of claim at Ext. 7 is that he was employed as a casual labour under the department of first Party from 01-07-1985 and that since then the second party was doing all the duties as of a regular employee due to vacancy existing for the regular employment. The second party was being paid his salary/wages through vouchers as per his attendance in the muster roll. Further case is that though the second party was doing all the duties of a regular employee but he was removed from the work from 31-05-1987 without giving any rhyme and reason and without complying with the provision of Section 25(F) of the ID Act,

1947, whereas the workman had completed more than 240 days of work in each calendar year. Further case is that the management of first party adopted unfair labour practice and also adopted pick and chose policy by not following the principle of last come first go. Further case is that the management of first party allowed to continue the work of the casual labour who were junior to him but he was removed from the work. No notice pay or in lieu of it one month pay was provided to him before taking recourse of retrenchment under Section 25(F) of the ID Act. Further contention is that as per judgment passed by the Hon'ble Apex Court in AIR 1987 SC 2342, it had been directed to regularize those casual labourers who had completed 360 days of works all along in a year but in order to escape from the liability of absorbing the casual labourers the management of first party was purposely directing breakage of the casual labours job so that casual labourer could not achieve the fruit as per aforesaid judgment and order of the Hon'ble Apex Court. The second party workman tried his best to convince the officers of the management of first party by meeting all of them for taking him back in the service but his all efforts went in vain. On this grounds it has been further contended that the action of the management of the first party through its officers in removing the second party workman from his work is illegal, unwarranted and unjustified and is also in violation of the provision of the Section 25 (F), 25 (G), 25 (H) of the I.D. Act, 1947, and the action of the first party is also against principle of natural justice. Through the statement of claim the second party has claimed for the relief of declaring the action of the first party in terminating/removing the second party from 31-05-1987 is illegal, unjustified and also violative of the provision of ID Act, 1947. Further sought for relief of his reinstatement in the job with full backwages and also for awarding cost of Rs. 5,000/- by way of compensation against the first party and for any other relief to which the second party is found entitle.

(4) The first party through its written statement at Ext. 10 denying all the allegation of the second party workman as per his statement of claim and pleading inter-alia that the first party is a Central Government undertaking engaged in the service of telecommunication and rendering the service through-out the nation and the first party engaged the casual/daily rated workman for the work like digging the trench for laying the cable and the said works are of temporary nature. The second party workman was not appointed as per rules. No any applications were invited by the first party. No any applications was tendered by the workman to the first party for their engagement and second party

workman was not send for any medical examination as they were not engaged as a regular employees. Thus the engagement of the second party with the first party was not according to the rules of appointment. The second party was not getting any benefits apart from wages as they were engaged on daily rated by the first party on the where and when requirement basis. Further stand taken is that the second party workman did not completed 240 days of work in any calendar years, there was no work of daily rated workers so the works of casual labour was stopped. It has been denied that the second party workman was doing all the works of a regular employees against any vacancy rather he was being paid for the days of works basis through vouchers. There was no need for giving notices under Section 25 (F) because the second party was a daily rated workman not completed 240 days work and there was no continuity in service of the second party workman rather the second party workman was called upon to do daily rated work whenever arising of temporary requirements of work and in any month the second party workman has not work for all the days rather as per requirement had worked only for 15 days in a month. The first party have not violated either the provision of Section 25(F), 25(G), 25(H). The dispute raised at belated stage and so the reference is barred by delay and latches. On the above grounds it has been contended that there was no merit in the statement of claim of the second party workman and the reference is fit to be dismissed.

(5) In view of the pleadings of the parties the following issues are taken for consideration and determination in this case.

ISSUES

- (I) Whether reference is maintainable ?
- (II) Whether the workman has got valid cause of action ?
- (III) Whether the reference is barred by delay and latches ?
- (IV) Whether the second party workman has completed 240 days of work in a calendar year during his tenure of work as a casual labourer in the department of the first party ?
- (V) Whether second party workman is entitle for reinstatement with full back wages and other reliefs as prayed for ?
- (VI) Whether the management of first party was justified in terminating the service of the workman Shri Manekalal Shyamlal Maurya? If not to what relief the workman is entitle to in this case ?

Findings

(6) ISSUE NO. IV, V & VI

These issues are taken up together for discussion and consideration. The second party workman as also the first party management of BSNL have adduced oral evidence to support their respective case. The workman in his oral evidence at Ext. 16 during cross-examination stated that he was not given any appointment letter for the job rather he was engaged as a daily wager and also admitted that during the engagement of his work no any order for regularisation was made. He also admitted that as per requirement of work he was called to performance. The workman in his evidence has remained firm that he completed 240 days of work in preceding calendar year, though any certificate granted by the officer of the first party has not been brought on the record to show the total days of work from his date of engagement from 1-07-1985 till before his alleged date of removal on 31-05-1987. However in order to support the period of his work and counting days of his work muster roll and vouchers were demanded from the first party for production of these documents to which the tribunal order for production. The first party came up with such explanation that as per rules and regulation the muster rolls, voucher etc. are kept preserved only for 5 years and not more and so the documents demanded from the first party by the workman which is about 30 years old is not expected to be preserved by the department also considering this aspect that the dispute was raised after 17 years at much belated stage after the so called removal from the casual work. On the other hand the management witness namely Mr. Narendra L. Chodhry AGM legal BSNL, Surat in his affidavit at Ext. 20 has stated that the workman was not engaged from 1-07-1985 but he was engaged from 1986 and that the concerned workman has not completed 240 days of work in any calendar year. But his such evidence is not based upon any muster roll and vouchers that the concern workman has not completed 240 days of works in a calendar year. During the cross-examination the management witness admitted that he was shown record of 10 to 12 reference cases and that he had the office file up to the 5 years before and that he had no record regarding these files and the second party workman and he has not knowledge when the workman was working and for what period he was working. He admitted that he has not produced showing work and presence of second party workman Manekalal Shyamlal Morya and the record regarding his wages. From examining the oral evidence of both sides it

appears that the management witness has verbally denied the claim of the workman that he completed 240 days of work in a calendar year during his tenure of work. But such denial as to the claim of the workman is not substantiated by any paper of the department. The workman discharged his initial onus that he had completed 240 days of work in preceding 12 months of the year and that he was engaged for work on 1-07-1985 and worked up to 30-05-1987. Thus first party has only met the assertion of the workman by mere denial and not supported by any documentary evidence. Whereas the subsequent onus to discredit the claim of the workman that he did not completed more than 240 days of work in any calendar year had shifted upon the first party to which the first party failed to discharge. By mere such explanation that more than 5 years old records viz, muster roll and vouchers etc. are not preserved as per rules and regulation. It has been also to be borne-in-mind that the first party is not denying that the workman had not work for any period in the department rather admitting that he workes as a casual labour but disputing that he did not completed 240 days of work. The workman had demanded production of documents of muster roll and voucher etc. for supporting his claim but the first party did not comply with only such explanation that old records are not preserved. So, in such view of the matter adverse inference has to be drawn against the first party to this extent that during the tenure of the work from 1-07-1985 to 30-05-1987 the workman Manekalal Shyamlal Morya must have completed 240 days of work in preceding 12 months since before his disengagement from the work.

(7) From the evidence discussed above it is proved that the second party workman during his tenure of work has completed 240 days of work in preceding calendar year as a casual labour/daily rated worker in the department of the first party. It is also proved that the status of the second party workman was of casual worker/daily rated worker getting employment excluding the holidays and the Sundays and getting his wages according to days of work in a month. It is also proved that the second party workman had not completed 3 years of service as a casual worker during his span period from 1-07-1985 to 30-05-1987, it is also proved no temporary status was granted to the workman by any order of the department of the first party. So, from the evidence the status of the second party workman is only established as a casual labourer/daily rated worker who completed 240 days of work in a calendar year. So, considering such position it was the duty of the management of the first party intending to retrench

the second party workman for giving retrenchment notice by complying with provision of section 25 (F) of ID Act by giving one month notice or to pay one month pay in lieu of notice. Certainly the first party has not complied with the provision and thus has violated the provision of the section 25 (F) of the ID Act. Even it is proved that the first party had violated the provision of section 25 (F) ID Act. It does not mean Ipso facto that the second party workman will be entitled for his reinstatement as a casual labour with back wages or part of back wages. Because of its admitted position that the second party workman was working in temporary capacity as a daily rated worker on casual basis as per requirement of the department of the first party and that the second party workman had not been granted status of temporary staff to the department of the first party.

(8) The Learned Counsel for the second party argued that since the second party workman had completed 240 days of the work in a calendar year and since the first party has violated the provision of the section 25 (F) in not giving retrenchment notice or notice pay so, the workman is entitled for his reinstatement to the works of casual worker with full back wages from the date of his allege removal from 31-05-1987 till his reinstatement. In support of his such argument several case laws have been cited which are reported in M.C.D V/s. Pravin Kumar Jain 1958 (2) LLJ page 674, State of UP V/s. Rajendra Singh Butola and another 2000(84) FLR page 869, Sharmishtha Dube V/s. City Board Itava 1991 (1) SCALE page 655, Narottam Chopra V/s. Labour Court 1989 SUPP1. (2) Supreme Court Cases page 97, Vikramaditya Pande V/s. Industrial Tribunal 2001(1) LLJ page 701, Manorama V/s. State of Bihar 1995 Supreme Court Cases (L & S 193), Mohanbhai Ramjibhai V/s. Surendranagar Dist. Panchayat 2005 (3) LLJ page 1070, Harayana Roadways V/s. Rudhansingh 2005 LLJ 2003 (3) page 4, State of Punjab V/s. Babitakumari 2006 SCC (L&S) 396, S.M. Nilangakar V/s. Telecom Department 2003 (3) SCALC page 533, Surat Mahila Nagrik Bank V/s. Mamtaben Mahendrabhari Joshi 2001 (1) LLR page 505, Executive Engineer CPWT Indor V/s. Madhukar Pursottam 2002 SCC L & S 1087, Kolkatta Telephone V/s. Rintu Bagji 2001 (1) LLJ page 951, Ramesh Kumar V/s. State of Harayana 2010 (1) SCC 543, Ritu Marbles V/s. Prabhakant Shukla 2010 (2) SCC 17 and Director Fisheries Terminal Division V/s. B.M. Chavda 2010 (1) SC 731. The Learned Counsel for the second party has also filed same copies of award delivered by the Industrial Tribunal, Labour Courts to support that on violation of the provision of section 25 (F) by the management and

the workman has completed 240 days of work, the workman has been found entitled for reinstatement with back wages.

(9) On the other hand Mr. N.K. Trivedi, the Learned Counsel appearing for the first party has relied upon authority in support of his such arguments that the second party workman is not entitled for his reinstatement with back wages because he was not regularly appointed, no appointment letter was issued, no temporary status was granted, rather the second party workman was working merely as a casual worker/daily rated worker on purely temporary basis and was only called for work in the event of requirement. He has relied upon the case law of Secretary, State of Karnataka and others V/s. Umadevi and others 2006 Supreme Court Cases (L & S) 753, BSNL V/s. Tejas Singh Civil Appeal No. 292/2009 Supreme Court, Gangadhar Pillai V/s. Siemens Ltd 2007 LAB IC 590, State of Maharashtra V/s. Datatre Digambar Birajdar 2009 LLR 1132 Supreme Court, Kendriya Vidyalay Sangathan and another V/s. S.C. Sharma 2005 LLR Supreme Court Cases. The Learned Counsel for the first party has also relied upon a Division Bench case laws of the Hon'ble Supreme Court in the case of Senior Superintendent Telegraph (Traffic) Bhopal V/s. Santosh Kumar Seal 2010 GLHEL-SC 48285- Equivalent Citation 2010 JX (SC 219). It has been held in the case law. of Gangadhar Pillai V/s. Siemens Ltd. 2007 LAB IC 590 SC "In the case an employee has been engaged as a casual or temporary employee on that he had been employed for a number of years, the same by itself may not be the conclusion that such appointment had been made with the object of depriving him of the status and privilege of the permanent employee" --. "However it is not the law that on completion of 240 days of continuous service in a year, concern employee becomes entitled for regularisation of his service and or permanent status. Under the Industrial Dispute Act a concept of 240 days was introduced as to so fasten statutory liability upon employer to pay compensation to be computed in the manner as specified in section 25 (F) of the ID Act 1947, before he retrenched from service and not for any other purpose. In the event a violation of the said provision takes place, the termination of service of the employee may be found to be illegal but only on that account, his service cannot be directed to be regularised ..." In the case law of Senior Superintendent Telegraph (Traffic) Bhopal V/s. Santosh Kumar Seal (2010 GLHEL SC) 48285 their Lordship of the Hon'ble Apex Court have examined on the question whether the relief of reinstatement and back wages granted to respondent No.1 to 14 is

justified. In the given case law the facts was that the workman had worked for more than 240 days in a year for merely 3 years and that their service were retrenched by an order dated February-10-1987 without following Mandatory provision of section 25 (F) of the I.D. Act 1947, the Tribunal by its award directed the appellant to reinstate the workman and pay them back wages from date of termination until date of reinstatement within 3 month of the publication of the award and upon appellant failure to comply with the award within stipulated period, it was directed that interest @ 8% per annum shall be payable. The appellant (management) challenged the said order before the High Court by filing writ petition it was dismissed. Then the appellant filed the present appeal before the Hon'ble Supreme Court which was decided by the judgment by April-26-2010. After examining all this aspects it has been held vide para 6 "in the last few years it has been consistently held by this court that the relief by way of reinstatement with back wages is not automatic even if termination: of an employee is found to be illegal or in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in case of such nature may be appropriate". It has been held at para 7 in the case Jagbir Singh Haryana State Agriculture marketing board and another (2009) 15 SCC 327 -... "The award of reinstatement with full back wages in a case whether the workman has completed 240 days of work in a year preceding date of termination particularly, daily wages has not been found to be proper by this court and instead compensation has been awarded. This court has distinguished between the daily wagers who does not hold post and permanent employee". It has been held by their Lordship at para 8 of the judgment. "In view of the aforesaid legal position and the fact that the workman were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice. In our considered view the compensation of Rs. 40,000 to each of the workman (respondent No.2 to 14) shall meets the ends of justice". The aforesaid case law reported in 2010 GLHEL SC 48285 will certainly prevail upon the previous judgment of the Apex Court and also the High Court on the points that in case of violation of section 25 (F) of the ID Act, 1947 by the employer the remedy of the workman will not be for his reinstatement with back wages rather a lumpsum of compensation according to facts of the case may be awarded. So, in view of

the aforesaid case law, the case law relied upon by Mr. R.C. . Pathak Learned Advocate for the second party are not applicable in the instant case.

(10) In the case in hands the status of the second party workman is of a temporary casual worker get daily rated wages and he worked as a casual worker during the period from July 1985 to May 1987. Though the workman completed 240 days of work but in view of the aforesaid case law of the Hon'ble Apex Court the case of Senior Superintendent Telegraph Traffic Bhopal V/s. Santosh Kumar Seal (supra) the second party workman is not entitled for his reinstatement and back wages as argued by Shri R.C. Pathak, Learned Advocate for the second party workman. But since the action of the first party management in terminating/removing by an oral order the service of the workman Manekalal Shyam Lal Morya is held not justified and legal because of non compliance of provision of section 25 (F) of the ID Act 1947, so second party workman is found entitled for a lumpsum compensation. In this case considering tenure or work during intervening period of about 2 years in the department of management of first party as a daily rated worker, an amount of compensation of Rs. 10, 000 will meet ends of justice in this case. Issue No. IV, V, VI are accordingly answered as per above.

(11) ISSUE No. III

Though there is a delay caused in referring this dispute for adjudication considering that the workman was removed from casual works from 31-05-1987, but such delay cannot be said to be latches on part of the second party workman because it is the case of the second party workman, that he approached the officers of the first party for taking him in job. More so, delay was caused in referring the dispute by the appropriate government after direction of the Hon'ble High Court of Gujarat in its order of writ petition No. 4556/2001. It is also incorporated in the order of the appropriate government referring the dispute. So, this issue is, therefore answered in negative.

(12) ISSUE No. I & II

The workman has got valid cause of action and the reference is maintainable. This reference is allowed in part. The first party is directed to pay Rs. 10,000 to the workman Manekalal Shyam Lal Morya by way of compensation within 3 months of this award. Failing which the amount of compensation will carry interest @ 9% per annum.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 23 सितम्बर, 2011

का.आ. 2927.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संख्या सीजीआईटीए-1383/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-09-2011 को प्राप्त हुआ था।

[सं. एल-40012/218/2000-आई आर (डीयू)]
जोहन तोपनो, अवर सचिव

New Delhi, the 23rd September, 2011

S.O. 2927.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA-1383/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 23-09-2011.

[No. L-40012/218/2000-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present: Binay Kumar Sinha, Presiding Officer,
CGIT- cum- Labour Court,
Ahmedabad,

Dated 29-8-2011

Reference: CGITA of 1383 of 2004 New
Reference : ITC. 9/2002 (Old)

- (1) The General Manager,
Surat Telecom Distt. BSNL,
Narayan Chambers, Varcha Road,
Khand Bazar, Surat-395003.
- (2) Sub Divisional Officer (T)
Valsad, BSNL,
C/o. GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat- 395003.
- (3) SDE (T), (Bulsar), BSNL,
C/o. GMTD Office, Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.

- (4) A.E. (Phones Ext.) S-II,
BSNL, C/o. GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.

....First Party

And

Their Workman

Shri Baleswar Lalmuni Pal,
Ganeshnagar-I, Plot No. 65,
Godadara Cenal, Aaspas Road,
Post-Godadara, Tal-Chorasi,
Distt-Surat, C/o. Secretary,
Association of Railway and Post,
Employees, 15, Shashi Apartment,
Opposite Aunjali Cinema, Vasna Road,
Ahmedabad (Gujarat)- 380007.

....Second Party

For the first party : Shri N.K. Trivedi, Advocate

For the second party workman : Shri R.C. Pathak, Advocate

AWARD

A dispute arose between the employer in relation to Management of General Manager Telecom, Surat and their workman Shri Baleswar Lalmuni Pal and on failure of efforts of conciliation, the conciliation officer sent failure report to the appropriate authority which followed by sending this reference for adjudication by order of the appropriate Government, the Government of India, Ministry of Labour and Employment/Shram Shakti Bhavan, Rafi Marg, New Delhi-110001, by its order No. L- 40012/218/2000-IR (DU) dated 6-3-2002, in exercise of power conferred by clause (d) of sub- section (1) of Section 10 of the Industrial Dispute Act, 1947, the term of reference was sent for adjudication by the Industrial Tribunal, Ahmedabad. Subsequently by modified order dated 2-5-2002 the proceedings in relation to the aforesaid dispute pending before the Industrial Tribunal-cum-Labour Court, Ahmedabad was withdrawn and transferred for adjudication to the Presiding Officer, Industrial Tribunal cum- Labour Court, Surat. Lastly the record was transferred to this Tribunal by the order dated 19-10-2010 of the Ministry of Labour and Employment, New Delhi.

The Terms of Reference as per Schedule is as Follows

- “Whether the action of the management of General Manager, Telecom, Surat Distt., Surat and its other Officers in allegedly terminating the services of the workman Shri Baleswar Lalmuni Pal, casual labour w.e.f. 31-10-1986 is legal, proper and justified? If not, to what relief the workman is entitled and from which date and what other directions are necessary in the matter?”ADD
- (2) In response to the notices to the party the second party workman and the first party management

appeared in the case and filed respective statement of claim and written statement.

- (3) The case of the second party workman as per his statement of claim at Ext. 7 is that he was employed as a casual labour under the department of first Party from 1-6-1985 and that since then the second party was doing all the duties as of a regular employee due to vacancy existing for the regular employment. The second party was being paid his salary/wages through vouchers as per his attendance in the muster roll. Further case is that though the second party was doing all the duties of a regular employee but he was removed from the work from 31-10-1986 without giving any rhyme and reason and without complying with the provision of Section 25 (F) of the ID Act, 1947, whereas the workman had completed more than 240 days of work in each calendar year. Further case is that the management of first party adopted unfair labour practice and also adopted pick and chose policy by not following the principle of last come first go. Further case is that the management of first party allowed to continue the work of the casual labour who were junior to him but he was removed from the work. No notice pay or in lieu of it one month pay was provided to him before taking recourse of retrenchment under Section 25 (F) of the ID Act. Further contention is that as per judgment passed by the Hon'ble Apex Court in AIR 1987 SC 2342, it had been directed to regularize those casual labourers who had completed 360 days of works all along in a year but in order to escape from the liability of absorbing the casual labourers the management of first party was purposely directing breakage of the casual labours job so that casual labourer could not achieve the fruit as per aforesaid judgment and order of the Hon'ble Apex Court. The second party workman tried 'his best to convince the officers of the management or first party by meeting all of them for taking him back in the service but his all efforts went in vain. On this grounds it has been further contended that the action of the management of the first party through its officers in removing the second party workman from his work is illegal unwarranted and unjustified and is also in violation of the provision of the Section 25 (F), 25 (G), 25 (H) of the ID Act, 1947, and the action of the first party is also against principle of natural justice. Through the statement of claim the second party has claimed for the relief of declaring the action of the first party in terminating/removing the second party from 31-10-1986 is illegal, unjustified and also violative of the provision of I.D. Act 1947. Further sought for relief of his reinstatement in the job with full backwages and also for awarding cost of Rs. 5, 000 by way of compensation against the first

party and for any other relief to which the second party is found entitle.

- (4) The first parties through its written statement at Ext. 10 denying all the allegation of the second party workman as per his statement of claim and pleading inter-alia that the first party is a Central Government undertaking engaged in the service of telecommunication and rendering the service throughout the nation and the first party engaged the casual/daily rated workman for the work like digging the trench for laying the cable and the said works are of temporary nature. The second party workman was not appointed as per rules. No any applications were-invited by the first party. No any applications was tendered by the workman to the first party for their engagement and second party workman was not send for any medical examination as they were not engaged as a regular employees. Thus the engagement of the second party with the first party was not according to the rules of appointment. The second party was not getting any benefits apart from wages as they were engaged on daily rated by the first party on the where and when requirement basis. Further stand taken is that the second party workman did not completed 240 days of work in any calendar years, there was no work of daily rated workers so the works of casual labour was stopped. It has been denied that the second party workman was doing all the works of a regular employees against any vacancy rather he was being paid for the days of works basis through vouchers. There was no need for giving notices under section 25 (F) because the second party was a daily rated workman not completed 240 days work and there was no continuity in service of the second party workman rather the second party workman was called upon to do daily rated work whenever arising of temporary requirements of work and in any month the second party workman has not work for all the days rather as per requirement had worked only for 15 days in a month. The first party have not violated either the provision of Section 25(F), 25 (G), 25 (H). The dispute raised at belated stage and so the reference is barred by delay and latches. On the above grounds it has been contended that there was no merit in the statement of claim of the second party workman and the reference is fit to be dismissed.
- (5) In view of the pleadings of the parties the following issues are taken for consideration and determination in this case.

ISSUES

- (I) Whether reference is maintainable?
(II) Whether the workman has got valid cause of action?

- (III) Whether the reference is barred by delay and latches?
- (IV) Whether the second party workman has completed 240 days of work in a calendar year during his tenure of work as a casual labourer in the department of the first party?
- (V) Whether second party workman is entitle for reinstatement with full back wages and other reliefs as prayed for?
- (VI) Whether the management of first party was justified in terminating the service of the workman Shri Baleshwar Lalmuni Pal ? If not to what relief the workman is entitle to in this case?

Findings

(6) ISSUES NO. IV, V and VI

These issues are taken up together for discussion and consideration. The second party workman as also the first party management of BSNL have adduced evidence to support their respective case. The workman in his oral evidence at Ext. 13 to support his case and remained firm on his last version that he completed 240 days of work in every calendar year. Further admitted that he was not given any appointment letter for the job rather he was engaged as a daily wagger and also admitted that during the engagement of his work no any order for regularisation was made. He also admitted that as per requirement of work he was called to performance the casual work. Besides in support of his oral evidence of completed 240 days of work in each calendar year documents as per Ext. 15 has been filed. Ext. 15/1 is the ration card containing the name of workman and his family members including his wife and children and other dependants in his family mentioning his place of residence at Godadara, Chorasi, Surat. Ext. 15/2 is the certificate granted by the Assistant Engineer Phones (R) Bardolil, mentioning details of his work from 1-1-1986 to 31-8-1986 month wise. During that period the workman had completed 243 days work in calendar year from his date of engagement 1-6-1985 till before his alleged date of removal. More so, on behalf of the second party workman in order to further support the period of his work and counting days of his work muster roll and vouchers were demanded from the first party for production of these documents to which the tribunal order for production. The first party came up with such explanation that as per rules and regulation the muster rolls, voucher etc. are kept preserved only for 5 years and not more and so the documents demanded from the first party by the workman which is about 20 years old is not expected to be preserved by the department also considering this aspect that the dispute was raised after 17 years at much belated stage after the so called removal from the casual work. On the other hand the management witness namely Mr. Narendra L. Chodhry AGM legal BSNL, Surat in his affidavit at Ext. 18 has stated that the workman was not engaged from

1-6-1985 but he was engaged from 1986 and that the concerned workman has not completed 240 days of work in any calendar year. But his such evidence is not based upon any muster roll and vouchers that the concern workman has not completed 240 days of works in a calendar year. During the cross-examination the management witness admitted that he was shown the record of 10 to 12 reference cases and that he had seen the office file up to the 5 years before and that he has no memory regarding these files and the second party workman and he has not knowledge when the workman was working and for what period he was working. He admitted that he has not produced showing work and presence of second party workman Baleshwar Lalmuni Pal and the record regarding his wages. From examining the oral evidence of both sides it appears that the management witness has verbally denied the claim of the workman that he completed 240 days of work in a calendar year during his tenure of work. But such denial as to the claim of the workman is not substantiated by any paper of the department. The workman discharged his initial onus that he had completed 240 days of work in preceding 12 months of the year and that he was engage for work on 1-6-1985 and worked up to 31-10-1986. Thus first party has only met the assertion of the workman by mere denial and not supported by any documentary evidence. Whereas the subsequent onus to discredit the claim of the workman that he did not completed more than 240 days of work in any calendar year had shifted upon the first party to which the first party failed to discharge. By mere such explanation that more than 5 years old records viz muster roll and vouchers etc. are not preserved as per rules and regulation. It has been also to be borne-in-mind that the first party is not denying that the workman had not work for any period in the department rather admitting that he works as a casual labour but disputing that he did not completed 240 days of work. The workman had demanded production of documents of muster roll and voucher etc. for supporting his claim but the first party did not comply with only such explanation that old records are not preserved. So, in such view of the matter adverse inference has to be drawn against the first party to this extent that during the tenure of the work from 1-6-1985 to 31-10-1986 the workman Baleshwar Lalmuni Pal must have completed 240 days of work in preceding 12 months since before his disengagement from the work.

(7) From the evidence discussed above it is proved that the second party workman during his tenure of work has completed 240 days of work in preceding calendar year as a casual labour/daily rated worker in the department of the first party. It is also proved that the status of the second party workman was of casual worker/daily rated worker getting employment excluding the holidays and the Sundays and getting his wages according to days of work in a month. It is also proved that the

second party workman had not completed 3 years of service as a casual worker during his span period from 1-6-1985 to 31-10-1986, it is also proved no temporary status was granted to the workman by any order of the department of the first party. So, from the evidence the status of the second party workman is only established as a casual labourer/daily rated worker who completed 240 days of work in a calendar year. So, considering such position it was the duty of the management of the first party intending to retrench the second party workman for giving retrenchment notice by complying with provision of section 25 (F) of ID Act by giving one month notice or to pay one month pay in lieu of notice. Certainly the first party has not complied with the provision and thus has violated the provision of the section 25 (F) of the I.D. Act. Even it is proved that the first party had violated the provision of section 25 (F) I.D. Act. It does not mean Ipso facto that the second party workman will be entitled for his reinstatement as a casual labour with back wages or part of back wages. Because of its admitted position that the second party workman was working in temporary capacity as a daily rated worker on casual basis as per requirement of the department of the first party and that the second party workman had not been granted status of temporary staff to the department of the first party.

(8) The Learned Counsel for the second party argued that since the second party workman had completed 240 days of the work in a calendar year and since the first party has violated the provision of the section 25 (F) in not giving retrenchment notice or notice pay so, the workman is entitled for his reinstatement to the works of casual worker with full back wages from the date of his allege removal from 31-10-1986 till his reinstatement. In support of his such argument several case laws have been cited which are reported in M.C.D. V/s Pravin Kumar Jain 1958 (2) LLJ page 674, State of UP V/s Rajendra Singh Butola and another 2000 (84) FLR page 869, Sharmishtha Dube V/s City Board Itava 1991 (1) SCALE page 655, Narottam Chopra V/s Labour Court 1989 SUPPL. (2) Supreme Court Cases page-97, Vikramaditya-Pande V/s Industrial Tribunal 2001 (1) LLJ page 701, Manorama V/s State of Bihar 1995 Supreme Court Cases (L & S) 193, Mohanbhai Ramjibhai V/s Surendranagar Dist. Panchayat 2005 (3) LLJ page 1070, Harayana Roadways V/s Rudhansingh 2005 LLJ 2003 (3) page 4, State of Punjab V/s Babitakumari 2006 SCC (L & S) 396, S.M. Nilangakar V/s Telecom Department 2003 (3) SCALC page 533, Surat Mahila Nagrik Bank V/s Mamtaben Mahendrabhai Joshi 2001 (1) LLR page 505, Executive Engineer CPWT Indor V/s Madhukar Pursottam 2002 SCC L & S 1087, Kolkata Telephone V/s Rintu Bagji 2001 (1) LLJ page 951, Ramesh Kumar V/s State of Haryana 2010 (1) SCC 543, Ritu Marbles V/s Prabhakant Shukla 2010 (2) SCC 17 and Director Fisheries Terminal Division V/s B.M. Chavda 2010 (1) SC 731. The Learned Counsel for the second party has also

filed same copies of award delivered by the Industrial Tribunal, Labour Courts to support that on violation of the provision of section 25 (F) by the management and the workman has completed 240 days of work, the workman has been found entitled for reinstatement with back wages.

(9) On the other hand Mr. N.K. Trivedi, the Learned Counsel appearing for the first party has relied upon authority in support of his such arguments that the second party workman is not entitled for his reinstatement with back wages because he was not regularly appointed, no appointment letter was issued, no temporary status was granted, rather the second party workman was working merely as a casual worker/daily rated worker on purely temporary basis and was only called for work in the event of requirement. He has relied upon the case law of Secretary, State of Karnataka and others V/s Umadevi and others 2006 Supreme Court Cases (L & S) 753, BSNL V/s Tejas Singh Civil Appeal No. 292/2009 Supreme Court, Gangadhar Pillai V/s Siemens Ltd. 2007 LAB IC 590, State of Maharashtra V/s Datatre Digambar Birajdar 2009 LLR 1132 Supreme Court, Kendriya Vidyalay Sangathan and another V/s S.C. Sharma 2005 LLR Supreme Court Cases. The Learned Counsel for the first party has also relied upon a Division Bench case laws of the Hon'ble Supreme Court in the case of Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal 2010 GLHEL -SC 48285- Equivalent Citation 2010 JX (SC 219). It has been held the case law of Gangadhar Pillai V/s Siemens Ltd. -2007 LAB IC 590 SC "In the case an employee has been engaged as a casual or temporary employee on that he had been employed for a number of years, the same by itself may not be the conclusion that such appointment had been made with the object of depriving him of the status and privilege of the permanent employee"— "However it is not the law that on completion of 240 days of continuous service in a year, concern employee becomes entitled for regularisation of his service and/or permanent status. Under the Industrial Dispute Act a concept of 240 days was introduced as to so fasten statutory liability upon employer to pay compensation to be computed in the manner as specified in section 25 (F) of the I.D. Act 1947, before he retrenched from service and not for any other purpose. In the event a violation of the said provision takes place, the termination of service of the employee may be found to be illegal but only on that account, his service cannot be directed to be regularised ..." In the case law of Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal (2010 GLHEL SC) 48285 their Lordship of the Hon'ble Apex Court have examined on the question whether the relief of reinstatement and back wages granted to respondent No.1 to 14 is justified. In the given case law the facts was that the workman had worked for more than 240 days in a year for merely 3 years and that their service were retrenched by an order dated February-10-1987 without following Mandatory provision

of section 25 (F) of the I.D. Act 1947, the Tribunal by its award directed the appellant to reinstate the workman and pay them back wages from date of termination until date of reinstatement within 3 month of the publication of the award and upon appellant failure to comply with the award within stipulated period, it was directed that interest @ 8% per annum shall be payable. The appellant (management) challenged the said order before the High Court by filing writ petition it was dismissed. Then the appellant filed the present appeal before the Hon'ble Supreme Court which was decided by the judgment by April-26-2010. After examining all this aspects it has been held vide para 6 " in the last few years it has been consistently held by this court that the relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or in contravention of the -prescribed procedure and that monitory compensation in lieu of reinstatement and back wages in case of such nature may be appropriate". It has been held at para 7 in the case Jagbir Singh Haryana State Agriculture marketing board and another (200915 SCC) 327 "The award of reinstatement with full back wages in a case whether the workman has completed 240 days of work in a year preceding date of termination particularly, daily wagers has not been found to be proper by this court and instead compensation has been awarded. This court has distinguished between the daily wagers who does not hold post and permanent employee", It has been held by their Lordship at para 8 of the judgment. "In view of the aforesaid legal position and the fact that the workman were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monitory compensation would sub serve the ends of justice. In our considered view the compensation of Rs. 40,000 to each of the workman (respondent No.2 to 14) shall meets the ends of justice". The aforesaid case law reported in 2010 GLHEL SC 48285 will certainly prevail upon the previous judgment of the Apex Court and also the High Court on the points that in case of violation of section 25 (F) of the ID Act 1947 by the employer the remedy of the workman will not be for his reinstatement with back wages rather a lumpsum of compensation according to facts of the case may be awarded. So, in view of the aforesaid case law, the case law relied upon by Mr. R.C. Pathak Learned Advocate for the second party are not applicable in the instant case.

(10) In the case in hands the status of the second party workman is of a temporary casual worker get daily rated wages and he worked as a casual worker during the period from June 1985 to October 1986. Though the workman completed 240 days of work but in view of the aforesaid case law of the Hon'ble Apex Court the case of Senior Superintendent Telegraph Traffic Bhopal V/s

Santosh Kumar Seal (supra) the second party workman is not entitled for his reinstatement and back wages as argued by Shri R.C. Pathak, Learned Advocate for the second party workman. But since the action of the first party management in terminating/removing by- an oral order the service of the workman Baleshwar Lalmuni Pal is held not justified and legal because of non compliance of provision of section 25 (F) of the I.D. Act 1947, so second party workman is found entitled for a lumpsum compensation. In this case considering tenure or work during intervening period of about 2 years in the department of management of first party as a daily rated worker, an amount of compensation, of Rs. 10, 000 will meet ends of justice in this case. Issue No. IV, V, VI are accordingly answered as per above.

(11) ISSUE No. III

Though there is a delay caused in referring this dispute for adjudication considering that the workman was removed from casual works from 31-10-1986, but such delay cannot be said to be latches on part of the second party workman because it is the case of the second party workman, that he approached the officers of the first party for taking him in Job. More so, delay was caused in referring the dispute by the appropriate government after direction of the Hon'ble High Court of Gujarat in its order of writ petition No. 4556/2001. It is also incorporated in the order of the appropriate government referring the dispute. So, this issue is, therefore answered in negative.

(12) ISSUE No. I & II

The workman has got valid cause of action and the reference is maintainable.

This reference is allowed in part. The first party is directed to pay Rs. 10,000 to the workman Baleshwar Lalmuni Pal by way of compensation within 3 months of this award. Failing which the amount of compensation will carry interest @ 9% per annum.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 23 सितम्बर, 2011

का.आ. 2928.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटी.-1384/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-9-2011 को प्राप्त हुआ था।

[सं. एल-40012/219/2000-आई आर (डीयू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 23rd September, 2011

S.O. 2928.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA-1384/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 23-09-2011.

[No. L-40012/219/2000-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present: Binay Kumar Sinha, Presiding Officer,
CGIT-cum-Labour Court,
Ahmedabad, Dated 29-8-2011

**Reference: CGITA of 1384 of 2004
New Reference : ITC. 10/2002 (Old)**

- (1) The General Manager,
Surat Telecom Distt. BSNL,
Narayan Chambers, Varcha Road,
Khand Bazar, Surat-395 003.
- (2) Sub Divisional Officer (T)
Valsad, BSNL,
C/o GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat-395 003.
- (3) SDE (T), (Bulsar), BSNL,
C/o GMTD Office, Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.
- (4) A.E. (Phones Ext.) S-II,
BSNL, C/o GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.

....First Party

And their workman

Shri Sureshchandra Satyanarayan Pal,
Krishankunj Society, Plot No. 36,
Dindholi Three Roads,
Post-Godadara, Tal-Chorasi,
Distt-Surat, C/o Secretary,
Association of Railway and Post,
Employees, 15, Shashi Apartment,
Opposite Aunjali Cinema, Vasna Road,
Ahmedabad (Gujarat)- 380 007.

....Second Party

For the first party : Shri N.K. Trivedi, Advocate**For the second party workman : Shri R.C. Pathak, Advocate****AWARD**

A dispute arose between the employer in relation to Management of General Manager Telecom, Surat and their workman Shri Sureshchandra Satyanarayan Pal and on failure of efforts of conciliation, the conciliation officer sent failure report to the appropriate authority which followed by sending this reference for adjudication by order of the appropriate Government, the Government of India, Ministry of Labour and Employment/Shram Shakti Bhavan, Rafi Marg, New Delhi-110001, by its order No. L-40012/219/2000-IR (DU) dated 6-3-2002, in exercise of power conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the term of reference was sent for adjudication by the Industrial Tribunal, Ahmedabad. Subsequently by modified order dated 2-5-2002 the proceedings in relation to the aforesaid dispute pending before the Industrial Tribunal-cum-Labour Court, Ahmedabad was withdrawn and transferred for adjudication to the Presiding Officer, Industrial Tribunal-cum-Labour Court, Surat. Lastly the record was transferred to this Tribunal by the order dated 19-10-2010 of the Ministry of Labour and Employment, New Delhi.

The Terms of Reference as per Schedule is as Follows :

- “Whether the action the management of General Manager, Telecom, Surat Distt., Surat and its other Officers in allegedly terminating the services of the workman Shri Sureshchandra Satyanarayan Pal, casual labour w.e.f. 31-10-1987 is legal, proper and justified? If not, to what relief the workman is entitled and from which date and what other directions are necessary in the matter?”
- (2) In response to the notices to the party the second party workman and the first party management appeared in the case and filed respective statement of claim and written statement.
- (3) The case of the second party workman as per his statement of claim at Ext. 7 is that he was employed as a casual labour under the department of first party from 2-7-1986 and that since then the second party was doing all the duties as of a regular employee due to vacancy existing for the regular employment. The second party was being paid his salary/wages through vouchers as per his attendance in the muster roll. Further case is that though the second party was doing all the duties of a regular employee but he was removed from the work from 31-10-1987 without giving any rhyme and reason and without complying with the provision of section 25(F) of the I.D. Act, 1947, whereas the workman had completed more than 240 days of work in each calendar year.

Further case is that the management of first party adopted unfair labour practice and also adopted pick and chose policy by not following the principle of last come first go. Further case is that the management of first party allowed to continue the work of the casual labour who were junior to him but he was removed from the work. No notice pay or in lieu of it one month pay was provided to him before taking recourse of retrenchment under section 25 (F) of the I.D. Act. Further contention is that as per judgment passed by the Hon'ble Apex Court in AIR 1987 SC 2342, it had been directed to regularize those casual labourers who had completed 360 days of works all along in a year but in order to escape from the liability of absorbing the casual labourers the management of first party was purposely directing breakage of the casual labours job so that casual labourer could not achieve the fruit as per aforesaid judgment and order of the Hon'ble Apex Court. The second party workman tried 'his best to convince the officers of the management or first party by meeting all of them for taking him back in the service but his all efforts went in vain. On this grounds it has been further contended that the action of the management of the first party through its officers in removing the second party workman from his work is illegal unwarranted and unjustified and is also in violation of the provision of the section 25(F), 25(G), 25(H) of the I.D. Act, 1947, and the action of the first party is also against principle of natural justice. Through the statement of claim the second party has claimed for the relief of declaring the action of the first party in terminating/removing the second party from 31-10-1987 is illegal, unjustified and also violative of the provision of I.D. Act, 1947. Further sought for relief of his reinstatement in the job with full backwages and also for awarding cost of Rs. 5,000 by way of compensation against the first party and for any other relief to which the second party is found entitle.

- (4) The first party through its written statement at Ext. 10 denying all the allegation of the second party workman as per his statement of claim and pleading inter-alia that the first party is a Central Government undertaking engaged in the service of telecommunication and rendering the service throughout the nation and the first party engaged the casual/daily rated workman for the work like digging the trench for laying the cable and the said works are of temporary nature. The second party workman was not appointed as per rules. No any applications were invited by the first party. No any applications was tendered by the workman to the first party for their engagement and second party workman was not send for any medical examination as they were not engaged as a regular employees.

Thus the engagement of the second party with the first party was not according to the rules of appointment. The second party was not getting any benefits apart from wages as they were engaged on daily rated by the first party on the where and when requirement basis. Further stand taken is that the second party workman did not completed 240 days of work in any calendar years, there was no work of daily rated workers so the works of casual labour was stopped. It has been denied that the second party workman was doing all the works of a regular employees against any vacancy rather he was being paid for the days of works basis through vouchers. There was no need for giving notices under section 25(F) because the second party was a daily rated workman not completed 240 days work and there was no continuity in service of the second party workman rather the second party workman was called upon to do daily rated work whenever arising of temporary requirements of work and in any month the second party workman has not work for all the days rather as per requirement had worked only for 15 days in a month. The first party have not violated either the provision of section 25(F), 25(G), 25(H). The dispute raised at belated stage and so the reference is barred by delay and latches. On the above grounds it has been contended that there was no merit in the statement of claim of the second party workman and the reference is fit to be dismissed.

- (5) In view of the pleadings of the parties the following issues are taken for consideration and determination in this case.

ISSUES

- (I) Whether reference is maintainable?
- (II) Whether the workman has got valid cause of action?
- (III) Whether the reference is barred by delay and latches?
- (IV) Whether the second party workman has completed 240 days of work in a calendar year during his tenure of work as a casual labourer in the department of the first party?
- (V) Whether second party workman is entitle for reinstatement with full back wages and other reliefs as prayed for?
- (VI) Whether the management of first party was justified in terminating the service of the workman Shri Sureshchandra Satyanarayan Pal? If not to what relief the workman is entitle to in this case?

Findings

- (6) ISSUE NO. IV, V and VI

These issues are taken up together for discussion and consideration. The second party workman as also the first party management of BSNL have

adduced oral evidence to support their respective case. The workman in his oral evidence at Ext. 14 during cross-examination stated that he was not given any appointment letter for the job rather he was engaged as a daily wager and also admitted that during the engagement of his work no any order for regularisation was made. He also admitted that as per requirement of work he was called to performance. The workman in his evidence has remained firm that he completed 240 days of work in preceeding calendar year, though any certificate granted by the officer of the first party has not been brought on the record to show the total days of work from his date of engagement from 2-7-1986 till before his alleged date of removal on 31-10-1987. However in order to support the period of his work and counting days of his work muster roll and workers were demanded from the first party for production of these documents to which the tribunal order for production. The first party came up with such explanation that as per rules and regulation the muster rolls, voucher etc. are kept preserved on for 5 years and not more and so the documents demanded from the first party by the workman which is about 20 years old is not expected to be preserved by the department also considering this aspect that the dispute was raised after 17 years at much belated stage after the so called removal from the casual work. On the other hand the management witness namely Mr. Narendra L. Chodhry AGM legal BSNL, Surat in his affidavit at Ext. 20 has stated that the workman was not engaged from 2-7-1986 and that the concerned workman has not completed 240 days of work in any calendar year. But his such evidence is not based upon any muster roll and vouchers that the concern workman has not completed 240 days of works in a calendar year. During the cross-examination the management witness admitted that he was shown the record of 10 to 12 reference cases and that he had seen the office file up to the 5 years before and that he has no memory regarding these files and the second party workman and he has not knowledge when the workman was working and for what period he was working. He admitted that he has not produced showing work and presence of second party workman Shri Sureshchandra Satyanarayan Pal and the record regarding his wages. From examining the oral evidence of both sides it appears that the management witness has verbally denied the claim of the workman that he completed 240 days of work in a calendar year during his tenure of the work. But such denial as to the claim of the workman is not substantiated by any paper of the department. The workman discharged his initial onus that he had completed 240 days of work in preceding 12 months of the year and that he

was engage for work on 2-7-1986 and worked up to 30-10-1987. Thus first party has only met assertion of the workman by mere denial and supported by any documentary evidence. With the subsequent onus to discredit the claim of the workman that he did not completed more than 240 days of work in any calendar year had shifted upon the first party to which the first party failed to discharge. By mere such explanation that more than 5 years old records viz. muster roll and vouchers etc. are not preserved as per rules and regulation. It has been also to be bore-in-mind that the first party is not denying that the workman had not work for any period in the department rather admitting that he works as a casual labour but disputing that he did not completed 240 days of work. The workman had demanded production of documents of muster roll and voucher etc. for supporting his claim but the first party did not comply with only such explanation that old records are not preserved. So, in such view of the matter adverse inference has to be drawn against the first party to this extent that during the tenure of the work from 2-7-1986 to 30-10-1987 the workman Shri Sureshchandra Satyanarayan Pal must have completed 240 days of work in preceding 12 months since before his disengagement from the work.

- (7) From the evidence discussed above it is proved that the second party workman during his tenure of work has completed 240 days of work in preceding calendar year as a casual labour/daily rated worker in the department of the first party. It is also proved that the status of the second party workman was of casual worker/daily rated worker getting employment excluding the holidays and the Sundays and getting his wages according to days of work in a month. It is also proved that the second party workman had not completed 3 years of service as a casual worker during his span period from 2-7-1986 to 30-10-1987, it is also proved no temporary status was granted to the workman by any order of the department of the first party. So, from the evidence the status of the second party workman is only established as a casual labourer/daily rated worker who completed 240 days of work in a calendar year. So, considering such position it was the duty of the management of the first party intending to retrench the second party workman for giving retrenchment notice by complying with provision of section 25 (F) of ID Act by giving one month notice or to pay one month pay in lieu of notice. Certainly the first party has not complied with the provision and thus has violated the provision of the section 25(F) of the ID Act. Even it is proved that the first party had violated the provision of section 25(F) ID Act. It does not mean

Ipsa facto that the second party workman will be entitled for his reinstatement as a casual labour with back wages or part of back wages. Because of its admitted position that the second party workman was working in temporary capacity as a daily rated worker on casual basis as per requirement of the department of the first party and that the second party workman had not been granted status of temporary staff to the department of the first party.

- (8) The Learned Counsel for the second party argued that since the second party workman had completed 240 days of the work in a calendar year and since the first party has violated the provision of the section 25 (F) in not giving retrenchment notice or notice pay so, the workman is entitled for his reinstatement to the works of casual worker with full back wages from the date of his alleged removal from 31-10-1987 till his reinstatement. In support of his such argument several case laws have been cited which are reported in M.C.D. V/s Pravin Kumar Jain 1958 (2) LLJ page 674, State of UP V/s Rajendra Singh Butola and another 2000 (84) FLR page 869, Sharmishtha Dube V/s City Board Itava 1991 (1) SCALE page 655, Narottam Chopra V/s Labour Court 1989 SUPPLI. (2) Supreme Court Cases page 97, Vikramaditya Pande V/s Industrial Tribunal 2001 (1) LLJ page 701, Manorama V/s State of Bihar 1995 Supreme Court Cases (L&S 193), Mohanbhai Ramjibhai V/s Surendranagar Dist. Panchayat 2005 (3) LLJ page 1070, Harayana Roadways V/s Rudhansingh 2005 LLJ 2003 (3) page 4, State of Punjab V/s Babitakumari 2006 SCC (L & S) 396, S.M. Nilangakar V/s Telecom Department 2003 (3) SCALC page 533, Surat Mahila Nagrik Bank V/s Mamtaben Mahendrabhai Joshi 2001 (1) LLR page 505, Executive Engineer CPWT Indor V/s Madhukar Pursottam 2002 SCC L & S 1087, Kolkatta Telephone V/s Rintu Bagji 2001 (1) LLJ page 951, Ramesh Kumar V/s State of Haryana 2010 (1) SCC 543, Ritu Marbles V/s Prabhakant Shukla 2010 (2) SCC 17 and Director Fisheries Terminal Division V/s B.M. Chavda 2010 (1) SC 731. The Learned Counsel for the second party had also filed same copies of award delivered by the Industrial Tribunal, Labour Courts to support that on violation of the provision of section 25 (F) by the management and the workman has completed 240 days of work, the workman has been found entitled for reinstatement with back wages.

- (9) On the other hand Mr. N.K. Trivedi, the Learned Counsel appearing for the first party has relied upon authority in support of his such arguments that the second party workman is not entitled for his reinstatement with back wages because he was not regularly appointed, no appointment letter was issued, no temporary status was granted, rather the

second party workman was working merely as a casual worker/daily rated worker on purely temporary basis and was only called for work in the event of requirement. He has relied upon the case law of Secretary, State of Karnataka and others V/s Umadevi and others 2006 Supreme Courts Case (L&S) 753, BSNL V/s. Tejas Singh Civil Appeal No. 292/2009 Supreme Court, Gangadhar Pillai V/s Siemens Ltd. 2007 LAB IC 590, State of Maharashtra V/s Datatre Digambar Birajdar 2009 LLR 1132 Supreme Court, Kendriya Vidyalay Sangathan and another V/s S.C. Sharma 2005 LLR Supreme Court Cases. The Learned Counsel for the first party has also relied upon a Division Bench case laws of the Hon'ble Supreme Court in the case of Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal 2010 GLHEL—SC 48285—Equivalent Citation 2010 JK (SC 219). It has been held the case law of Gangadhar Pillai V/s Siemens Ltd 2007. LAB IC 590 SC "In the case an employee has been engaged as a casual or temporary employee on that he had been employed for a number of years, the same by itself may not be the conclusion that such appointment had been made with the object of depriving him of the status and privilege of the permanent employee"— "However it is not the law that on completion of 240 days of continuous service in a year, concern employee becomes entitled for regularisation of his service and/or permanent status. Under the Industrial Dispute Act a concept of 240 days was introduced as to so fasten statutory liability upon employer to pay compensation to be computed in the manner as specified in section 25(F) of the I.D. Act, 1947, before he retrenched from service and not for any other purpose. In the event a violation of the said provision takes place, the termination of service of the employee may be found to be illegal but only on that account, his service cannot be directed to be regularised..." In the case law of Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal (2010 GLHEL SC) 48285 their Lordship of the Hon'ble Apex Court have examined on the question whether the relief of reinstatement and back wages granted to respondent No. 1 to 14 is justified. In the given case law the facts was that the workman had worked for more than 240 days in a year for merely 3 years and that their service were retrenched by an order dated February 10-1987 without following Mandatory provision of section 25 (F) of the I.D. Act, 1947, the Tribunal by its award directed the appellant to reinstate the workman and pay them back wages from date of termination until date of reinstatement within 3 months of the publication of the award and upon appellant failure to comply with the award within stipulated period, it was directed that interest @ 8% per annum shall be

payable. The appellant (management) challenged the said order before the High Court by filing writ petition it was dismissed. Then the appellant filed the present appeal before the Hon'ble Supreme Court which was decided by the judgment by April 26-2010. After examining all this aspects it has been held vide para 6 "in the last few years it has been consistently held by this court that the relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or in contravention of the prescribed procedure and that monitory compensation in lieu of reinstatement and back wages in case of such nature may be appropriate". It has been held at para 7 in the case Jagbir Singh Haryana State Agriculture Marketing Board and another (2009 15 SCC) 327—"The award of reinstatement with full back wages in a case whether the workman has completed 240 days of work in a year preceding date of termination particularly, daily wagers has not been found to be proper by this court and instead compensation has been awarded. This court has distinguished between the daily wagers who does not hold post and permanent employee". It has been held by their Lordship at para 8 of the judgment. "In view of the aforesaid legal position and the fact that the workman were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monitory compensation would subserve the ends of justice. In our considered view the compensation of Rs. 40,000 to each of the workman (respondent No. 2 to 14) shall meets the ends of justice". The aforesaid case law reported in 2010 GLHEL SC 48285 will certainly prevail upon the previous judgment of the Apex Court and also the High Court on the points that in case of violation of section 25 (F) of the ID Act 1947 by the employer the remedy of the workman will not be for his reinstatement with back wages rather a lumpsum of compensation according to facts of the case may be awarded. So, in view of the aforesaid case law, the case law relied upon by Mr. R.C. Pathak Learned Advocate for the second party are not applicable in the instant case.

- (10) In the case in hands the status of the second party workman is of a temporary casual worker get daily rated wages and he worked as a casual worker during the period from July 1986 to October 1987. Though the workman completed 240 days of work but in view of the aforesaid case law of the Hon'ble Apex Court the case of Senior Superintendent Telegraph Traffic Bhopal V/s Santosh Kumar Seal (supra) the second party workman is not entitled for his reinstatement and back wages as argued by.

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Shri R.C. Pathak, Learned Advocate for the second party workman. But since the action of the first party management in terminating/removing by an oral order the service of the workman Shri Sureshchandra Satyanarayan Pal is held not justified and legal because of non compliance of provision of section 25 (F) of the ID Act, 1947, so second party workman is found entitled for a lumpsum compensation. In this case considering tenure or work during intervening period of about 2 years in the department of management of first party as a daily rated worker, an amount of compensation of Rs. 10,000 will meet ends of justice in this case. Issue No. IV, V, VI are accordingly answered as per above.

(11) ISSUE No. III

Though there is a delay caused in referring this dispute for adjudication considering that the workman was removed from casual works from 31-10-1987, but delay cannot be said to be latches on part of the second party workman because it is the case of the second party workman, that he approached the officers of the first party for taking him in job. More so, delay was caused in referring the dispute by the appropriate Government after direction of the Hon'ble High Court of Gujarat in its order of Writ Petition No. 4556/2001. It is also incorporated in the order of the appropriate Government referring the dispute. So, this issue is, therefore answered in negative.

(12) ISSUE No. I and II

The workman has got valied cause of action and the reference is maintainable.

This reference is allowed in part. The first party is directed to pay Rs. 10,000 to the workman Shri Sureshchandra Satyanarayan Pal by way of compensation within 3 months of this award. Failing which the amount of compensation will carry interest @ 9% per annum.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 23 सितम्बर, 2011

का.आ. 2929.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार में औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए-1385/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-09-2011 को प्राप्त हुआ था।

[सं. एल-40012/220/2000-आई आर (डीयू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 23rd September, 2011

S.O. 2929.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA-1385/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 23-09-2011.

[No. L-40012/220/2000-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT, AHMEDABAD

Present: Binay Kumar Sinha, Presiding Officer,
CGIT- cum -Labour Court,
Ahmedabad, Dated 29-8-2011

Reference: CGITA of 1385 of 2004 (New)
Reference : ITC. 11/2002 (Old)

- (1) The General Manager,
Surat Telecom Distt. BSNL,
Narayan Chambers, Varcha Road,
Khand Bazar, Surat-395003.
- (2) Sub Divisional Officer (T)
Valsad, BSNL,
C/o. GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat- 395003.
- (3) SDE (T), (Bulsar), BSNL,
C/o. GMTD Office, Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.
- (4) A.E. (Phones Ext.) S-II,
BSNL, C/o. GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.

....First Party

And
Their Workman

Shri Jayshankar Ramnarayan Pal,
Ganeshnagar-I Plot No. 120-121
Godadara Canal, Aaspas Road,
Post-Godadara, Tal-Chorasi,
Distt-Surat, C/o. Secretary,
Association of Railway and Post,
Employees, 15, Shashi Apartment;

Opposite Aunjali Cinema, Vasna Road,
Ahmedabad (Gujarat)- 380007Second Party

For the first party : Shri N.K. Trivedi, Advocate

For the second party workman : Shri R.C. Pathak, Advocate

AWARD

A dispute arose between the employer in relation to Management of General Manager Telecom, Surat and their workman Shri Jayshankar Ramnarayan Pal and on failure of efforts of conciliation, the conciliation officer sent failure report to the appropriate authority which followed by sending this reference for adjudication by order of the appropriate Government, the Government of India, Ministry of Labour and Employment/Shram Shakti Bhavan, Rafi Marg, New Delhi-110001, by its order No. L-40012/220/2000-IR (DU) dated 6-3-2002, in exercise of power conferred by clause (d) of sub section (1) of Section 10 of the Industrial Dispute Act, 1947, the term of reference was sent for adjudication by the Industrial Tribunal, Ahmedabad. Subsequently by modified order dated 2-5-2002 the proceedings in relation to the aforesaid dispute pending before the Industrial Tribunal-cum-Labour Court, Ahmedabad was withdrawn and transferred for adjudication to the Presiding Officer, Industrial Tribunal cum Labour Court, Surat. Lastly the record was transferred to this Tribunal by the order dated 19-10-2010 of the Ministry of Labour and Employment, New Delhi.

The Terms of Reference as per Schedule is as Follows :

- "Whether the action the management of General Manager, Telecom, Surat Distt., Surat and its other Officers in allegedly tenninating the services of the workman Shri Jayshankar Ramnarayan Pal, casual labour w.e.f. 31-11-1987 is legal, proper and justified? If not, to what relief the workman is entitled and from which date and what other directions are necessary in the matter?"
- (2) In response to the notices to the party the second party workman and the first party management appeared in the case and filed respective statement of claim and written statement.
- (3) The case of the second party workman as per his statement of claim at Ext. 7 is that he was employed as a casual labour under the department of first party from 7-7-1985 and that since then the second party was doing all the duties as of a regular employee due to vacancy existing for the regular employment. The second party was being paid his salary/wages through vouchers as per his attendance in the muster roll. Further case is that though the second party was doing all the duties of a regular employee but he was removed from the work from 31-11-1987 without giving any rhyme and reason and without complying with the provision of section 25 (F) of

the I.D. Act, 1947, whereas the workman had completed more than 240 days of work in each calendar year. Further case is that the management of first party adopted unfair labour practice and also adopted pick and chose policy by not following the principle of last come first go. Further case is that the management of first party allowed to continue the work of the casual labour who were junior to him but he was removed from the work. No notice pay or in lieu of it one month pay was provided to him before taking recourse of retrenchment under section 25(F) of the I.D. Act. Further contention is that as per judgment passed by the Hon'ble Apex Court in AIR 1987 SC 2342, it had been directed to regularize those casual labourers who had completed 360 days of works all along in a year but in order to escape from the liability of absorbing the casual labourers the management of first party was purposely directing breakage of the casual labours job so that casual labourer could not achieve the fruit as per aforesaid judgment and order of the Hon'ble Apex Court. The second party workman tried this best to convince the officers of the management of first party by meeting all of them for taking him back in the service but his all efforts went in vain. On this grounds it has been further contended that the action of the management of the first party through its officers in removing the second party workman from his work is illegal unwarranted and unjustified and is also in violation of the provision of the section 25(F), 25(G), 25(H) of the I.D. Act, 1947, and the action of the first party is also against principle of natural justice. Through the statement of claim the second party has claimed for the relief of declaring the action of the first party in terminating/removing the second party from 31-5-1987 is illegal, unjustified and also violative of the provision of I.D. Act, 1947. Further sought for relief of his reinstatement in the job with full backwages and also for awarding cost of Rs. 5,000 by way of compensation against the first party and for any other relief to which the second party is found entitle.

- (4) The first parties through its written statement at Ext. 10 denying all the allegation of the second party workman as per his statement of claim and pleading inter-alia that the first party is a Central Government undertaking engaged in the service of Telecommunication and rendering the service through out the nation and the first party engaged the casual/ daily rated workman for the work like digging the trench for laying the cable and the said works are of temporary nature. The second party workman was not appointed as per rules. No any applications were invited by the first party. No any applications was tendered by the workman to the first party for their engagement and second party workman was not send for any medical examination as they were not engaged as a regular employees. Thus the

engagement of the second party with the first party was not according to the rules of appointment. The second party was not getting any benefits apart from wages as they were engaged on daily rated by the first party on the where and when requirement basis. Further stand taken is that the second party workman did not completed 240 days of work in any calendar years, there was no work of daily rated workers so the works of casual labour was stopped. It has been denied that the second party workman was doing all the works of a regular employees against any vacancy rather he was being paid for the days of works basis through vouchers. There was no need for giving notices under section 25 (F) because the second party was a daily rated workman not completed 240 days work and there was no continuity in service of the second party workman rather the second party workman was called upon to do daily rated work whenever arising of temporary requirements of work and in any month the second party workman has not work for all the days rather as per requirement had worked only for 15 days in a month. The first party have not violated either the provision of section 25(F), 25(G), 25(H). The dispute raised at belated stage and so the reference is barred by delay and latches. On the above grounds it has been contended that there was no merit in the statement of claim of the second party workman and the reference is fit to be dismissed.

- (5) In view of the pleadings of the parties the following issues are taken for consideration and determination in this case.

ISSUES

- (I) Whether reference is maintainable?
- (II) Whether the workman has got valid cause of action?
- (III) Whether the reference is barred by delay and latches?
- (IV) Whether the second party workman has completed 240 days of work in a calendar year during his tenure of work as a casual labourer in the department of the first party?
- (V) Whether second party workman is entitle for reinstatement with full back wages and other reliefs as prayed for?
- (VI) Whether the management of first party was justified in terminating the service of the workman Shri Jayshankar Ramnarayan Pal? If not to what relief the workman is entitle to in this case?

Findings

- (6) ISSUE NO. IV, V and VI

These issues are taken up together for discussion and consideration. The second party workman as also the first party management of BSNL have adduced evidence to support their respective case.

The workman in his oral evidence in examination-in-chief at Ext. 14 and in his further examination in chief at Ext. 23 in support of his case that he worked for 240 days in every calendar year. The workman in his cross-examination at Ext. 23 has admitted that he was not given any appointment letter for the job. Besides his oral evidence documentary evidence have also been filed as per list at Ext. 15, 15/1, 15/2 and 15/3 are the three certificates granted by the Assistant Engineer, Udhna in Ext. 15/1 which is for the period 1-2-1986 to 28-2-1987. It has been shown that the workman has performed the work for 263 days, Ext. 15/2 got to show that in April-1987 and May-1987 he worked for 61 days Ext. 15/3 further go to show that the workman worked for 151 days from July-1987 to November-1987. So, as per Ext. 15/1 to 15/3 couple with the oral evidence of the second party workman at Ext. 14 and 23 it is proved that the second party workman since from his date of engagement 7-5-1985 till before his removal on 30-11-1987 has worked for more than 240 days in calendar year. However in order to support the period of his work and counting days of his work muster roll and vouchers were demanded from the first party for production of these documents to which the tribunal order for production. The first party came up with such explanation that as per rules and regulation the muster rolls, voucher etc. are kept preserved only for 5 years and more and so the documents demanded from the first party by the workman which is about 20 years old is not expected to be preserved by the department also considering this aspect that the dispute was raised after 17 years at much belated stage after the so-called removal from the casual work. On the other hand, the management witness namely Mr. Narendra L. Chodhry AGM legal BSNL, Surat in his affidavit at Ext. 25 has stated that the workman was not engaged from 7-5-1985 but he was engaged from 1986 and that the concerned workman has not completed 240 days of work in any calendar year. But his such evidence is not based upon any muster roll and vouchers that the concern workman has not completed 240 days of works in a calendar year. During the cross-examination the management witness admitted that he was shown the record of 10 to 12 reference cases and that he had seen the office file up to the 5 years before and that he has no memory regarding these files and the second party workman and he has not knowledge when the workman was working and for what period he was working. He admitted that he has not produced showing work and presence of second party workman Jayshankar Ramnarayan Pal and the record regarding his wages. From examining the oral evidence of both sides it appears that the

management witness has verbally denied the claim of the workman that he completed 240 days of work in a calendar year during his tenure of work. But such denial as to the claim of the workman is not substantiated by any paper of the department. The workman discharged his initial onus that he had completed 240 days of work in preceding 12 months of the year and that he was engaged for work on 7-5-1985 and worked up to 31-11-1987. Thus first party has only met the assertion of the workman by mere denial and not supported by any documentary evidence. Whereas the subsequent onus to discredit the claim of the workman that he did not completed more than 240 days of work in any calendar year had shifted upon the first party to which the first party failed to discharge. By mere such explanation that more than 5 years old records viz muster roll and vouchers etc. are not preserved as per rules and regulation. It has been also to be borne-in-mind that the first party is not denying that the workman had not work for any period in the department rather admitting that he works as a casual labour but disputing that he did not completed 240 days of work. The workman had demanded production of documents of muster roll and voucher etc. for supporting his claim but the first party did not comply with only such explanation that old records are not preserved. So, in such view of the matter adverse inference has to be drawn against the first party to his extent that during the tenure of the work from 7-5-1985 to 31-11-1987 the workman Jayshankar Ramnarayan Pal must have completed 240 days of work in preceding 12 months since before his disengagement from the work.

- (7) From the evidence discussed above it is proved that the second party workman during his tenure of work has completed 240 days of work in preceding calendar year as a casual labour/daily rated worker in the department of the first party. It is also proved that the status of the second party workman was of casual worker/daily rated worker getting employment excluding the holdings and the Sundays and getting his wages according to days of work in a month. It is also proved that the second party workman had not completed 3 years of service as a casual worker during his span period from 7-5-1985 to 31-11-1987, it is also proved no temporary status was granted to the workman by any order of the department of the first party. So, from the evidence the status of the second party workman is only established as a casual labourer/daily rated worker who completed 240 day of work in a calendar year. So, considering such position it was the duty of the management of the first party intending to retrench the second party workman for giving retrenchment notice by complying with provision of section 25(F) of I.D. Act by giving one month notice or to pay one month

pay in lieu of notice. Certainly the first party has not complied with the provision and thus has violated the provision of the section 25(F) of the ID Act. Even it is proved that the first party had violated the provision of section 25(F) ID Act. It does not mean *Ipso facto* that the second party workman will be entitled for his reinstatement as a casual labour with back wages or party of back wages. Because of its admitted position that the second party workman was working in temporary capacity as a daily rated worker on casual basis as per requirement of the department of the first party and that the second party workman had not been granted status of temporary staff to the department of the first party.

- (8) The Learned Counsel for the second party argued that since the second party workman had completed 240 days of the work in a calendar year and since the first party has violated the provision of the section 25 (F) in not giving retrenchment notice or notice pay so, the workman is entitled for his reinstatement to the works of casual worker with full back wages from the date of his allege removal from 31-11-1987 till his reinstatement. In support of his such argument several case laws have been cited which are reported in *M.C.D V/s Pravin Kumar Jain* 1958 (2) LLJ page 674, *State of UP V/s Rajendra Singh Butola* and another 2000 (84) FLR page 869, *Sharmishtha Dube V/s City Board Itava* 1991 (1) SCALE page 655, *Narottam Chopra V/s Labour Court* 1989 SUPPL. (2) Supreme Court Cases page 97, *Vikramaditya Pande V/s Industrial Tribunal* 2001 (1) LLJ page 701, *Manorama V/s State of Bihar* 1995 Supreme Court Cases (L & S 193), *Mohanbhai Ramjibhai V/s Surendranagar Distt. Panchayat* 2005 (3) LLJ page 1070, *Haryana Roadways V/s Rudhansingh* 2005 LLJ 2003 (3) page 4, *State of Punjab V/s Babitakumari* 2006 SCC (L & S) 396, *S.M. Nilangakar V/s Telecom Department* 2003 (3) SCALC page 533, *Surat Mahila Nagrik Bank V/s Mamtaben Mahendrabhai Joshi* 2001 (1) LLR page 505, *Executive Engineer CPWT Indor V/s Madhukar Pursottam* 2002 SCC L & S 1087, *Kolkatta Telephone V/s Rintu Bagji* 2001 (1) LLJ page 951, *Ramesh Kumar V/s State of Haryana* 2010 (1) SCC 543, *Ritu Marbles V/s Prabhakant Shukla* 2010 (2) SCC 17 and *Director Fisheries Triminal Divison V/s B.M. Chavda* 2010 (1) SC 731. The learned Counsel for the second party has also filed same copies of award delivered by the Industrial Tribunal, Labour Courts to support that on violation of the provision of section 25 (F) by the management and the workman has completed 240 days of work, the workman has been found entitled for reinstatement with back wages.

- (9) On the other hand Mr. N. K. Trivedi, the Learned Counsel appearing for the first party has relied upon

authority in support of his such arguments that the second party workman is not entitled for his reinstatement with back wages because he was not regularly appointed, no appointment letter was issued, no temporary status was granted, rather the second party workman was working merely as a casual worker/daily rated worker on purely temporary basis and was only called for work in the event of requirement. He has relied upon the case law of *Secretary, State of Karnataka and others V/s Umadevi and others* 2006 Supreme Court Cases (L & S) 753, *BSNL V/s Tejas Singh Civil Appeal No. 292/2009* Supreme Court, *Gangadhar Pillai V/s Siemens Ltd.* 2007 LAB IC 590, *State of Maharashtra V/s Datatre Digambar Birajdar* 2009 LLR 1132 Supreme Court, *Kendriya Vidyalay Sangathan and another V/s S.C. Sharma* 2005 LLR Supreme Court Cases. The Learned Counsel for the first party has also relied upon a Division Bench case laws of the Hon'ble Supreme Court in the case of *Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal* 2010 GLHEL—SC 48285- Equivalent Citation 2010 JX (SC 219). It has been held the case law of *Gangadhar Pillai V/s Siemens Ltd.* 2007 LAB IC 590 SC "In the case an employee has been engaged as a casual or temporary employee on that he had been employed for a number of years, the same by itself may not be the conclusion that such appointment had been made with the object of depriving him of the status and privilege of the permanent employee". "However it is not the law that on completion of 240 days of continuous service in a year, concern employee becomes entitled for regularisation of his service and/or permanent status. Under the Industrial Dispute Act a concept of 240 days was introduced as to so fasten statutory liability upon employer to pay compensation to be computed in the manner as specified in section 25(F) of the I.D. Act, 1947, before he retrenched from service and not for any other purpose. In the event a violation of the said provision takes place, the termination of service of the employee may be found to be illegal but only on that account, his service cannot be directed to be regularised..." In the case law of *Senior Superintendent Telegraph (Traffic) Bhopal V/s. Santosh Kumar Seal* (2010 GLHEL SC) 48285 their Lordship of the Hon'ble Apex Court have examined on the question whether the relief of reinstatement and back wages granted to respondent No. 1 to 14 is justified. In the given case law the facts was that the workman had worked for more than 240 days in a year for merely 3 years and that their service were retrenched by an order dated February-10-1987 without following Mandatory provision of Section 25 (F) of the ID Act 1947, the Tribunal by its award directed the appellant to

reinstate the workman and pay them back wages from date of termination until date of reinstatement within 3 month of the publication of the award and upon appellant failure to comply with the award within stipulated period, it was directed that interest @ 8% per annum shall be payable. The appellant (management) challenged the said order before the High Court by filing writ petition it was dismissed. Then the appellant filed the present appeal before the Hon'ble Supreme Court which was decided by the judgment by April-26-2010. After examining all this aspects it has been held vide para 6 "in the last few years it has been consistently held by this court that the relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or in contravention of the prescribed procedure and that monitory compensation in lieu of reinstatement and back wages in case of such nature may be appropriate". It has been held at para 7 in the case Jagbir Singh Haryana State Agriculture marketing board and another (2009 15 SCC) 327—.... "The award of reinstatement with full back wages in a case whether the workman has completed 240 days of work in a year preceding date of termination particularly, daily wagers has not been found to be properly this court and instead compensation has been awarded. This court has distinguished between the daily wagers who does not hold post and permanent employee". It has been held by their Lordship at para 8 of the judgment. In view of the aforesaid legal position and the fact that the workman were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monitory compensation would subserve the ends of justice. In our considered view the compensation of Rs. 40,000 to each of the workman (respondent No. 2 to 14) shall meets the ends of justice". The aforesaid case law reported in 2010 GLHEL SC 48285 will certainly prevail upon the previous judgment of the Apex Court and also the High Court on the points that in case of violation of section 25 (F) of the ID Act 1947 by the employer the remedy of the workman will not be for his reinstatement with back wages rather a lumpsum of compensation according to facts of the case may be awarded. So, in view of the aforesaid case law, the case law relied upon by Mr. R.C. Pathak Learned Advocate for the second party are not applicable in the instant case.

- (10) In the case in hands the status of the second party workman is of a temporary casual worker get daily rated wages and he worked as a casual worker during the period from May 1985 to November 1987. Though the workman completed 240 days of work but in view of the aforesaid case law of the Hon'ble Apex Court the case of Senior Superintendent Telegraph

Traffic Bhopal V/s Santosh Kumar Seal (*supra*) the second party workman is not entitled for his reinstatement and back wages as argued by Shri R.C. Pathak, Learned Advocate for the second party workman. But since the action of the first party management in terminaing/removing by an oral order the service of the workman Jayshankar Ramnarayan Pal is held not justified and legal because of non compliance of provision of Section 25 (F) of the ID Act 1947, so second party workman is found entitled for a lumpsum compensation. In this case considering tenure or work during intervening period of about 2 years in the department of management of first party as a daily rated worker, an amount of compensation of Rs. 10,000 will meet ends of justice in this case. Issue No. IV, V, VI are accordingly answered as per above.

(11) **ISSUE No. III**

Though there is a delay caused in referring this dispute for adjudication considering that the workman was removed from casual works from 31-11-1987, but such delay cannot be said to be latches on part of the second party workman because it is the case of the second party workman, that he approached the officers of the first party for taking him in job. More so, delay was caused in referring the dispute by the appropriate government after direction of the Hon'ble High Court of Gujarat in its order of writ petition No. 4556/2001. It is also incorporated in the order of the appropriate government referring the dispute. So, this issue is, therefore answered in negative.

(12) **ISSUE No. I & II**

The workman has got valid cause of action and the reference is maintainable.

This reference is allowed in part. The first party is directed to pay Rs. 10,000 to the workman Jayshankar Ramnarayan Pal by way of compensation within 3 months of this award. Failing which the amount of compensation will carry interest @ 9% per annum.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 23 सितम्बर, 2011

का.आ. 2930.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए-1386/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-9-2011 को प्राप्त हुआ था।

[सं. एल-40012/216/2000-आई आर (डी यू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 23rd September, 2011

S.O. 2930.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGITA-1386/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 23-9-2011.

[No. L-40012/216/2000-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM - LABOUR COURT,
AHMEDABAD**

Present

Binay Kumar Sinha,
Presiding Officer,
CGIT-cum-Labour Court,
Ahmedabad, Dated 29-8-2011

Reference CGITA of 1386 of 2004 New

Reference : ITC. 12/2002 (Old)

- (1) The General Manager,
Surat Telecom Distt., BSNL,
Narayan Chambers, Varcha Road,
Khand Bazar, Surat-395 003.
- (2) Sub Divisional Officer (T)
Valsad, BSNL,
C/o. GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat-395 003.
- (3) SDE (T), (Bulsar), BSNL,
C/o. GMTD Office, Narayan Chambers,
Varcha Road, Khandbazar,
Surat.
- (4) A.E. (Phones Ext.)S-II,
BSNL, C/o.GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.

..... First Party

And their workman

Shri Ram Bishun Ram Pervase Bhagat,
Krishna Kunj Society, Dindholi three Road,
Post-Godadara, Tal.-Chorasi,
Dist-Surat, C/o. Secretary,
Association of Railway and Post,
Employees, 15, Shashi Apartment,
Opposite Aunjali Cinema, Vasna Road,
Ahmedabad (Gujarat)-380007.

..... Second Party

For the first party : Shri N.K. Trivedi, Advocate

For the second party workman: Shri R.C. Pathak, Advocate

AWARD

A dispute arose between the employer in relation to Management of General Manager Telecom, Surat and their workman Shri Ram Bishun Ram Pervase Bhagat and on failure of efforts of conciliation, the conciliation officer sent failure report to the appropriate authority which followed by sending this reference for adjudication by order of the appropriate Government, the Government of India, Ministry of Labour & Employment/Shram Shakti Bhavan, Rafi Marg, New Delhi-110001, by its order No.-L-40012/216/2000-IR (DU) dated 6-3-2002, in exercise of power conferred by clause (d) of sub section (1) of Section 10 of the Industrial Dispute Act 1947, the terms of reference was sent for adjudication by the Industrial Tribunal, Ahmedabad. Subsequently by modified order dated 2-5-2002 the proceedings in relation to the aforesaid dispute pending before the Industrial Tribunal cum Labour Court, Ahmedabad was withdrawn and transferred for adjudication to the Presiding Officer, Industrial Tribunal cum Labour Court, Surat. Lastly the record was transferred to this Tribunal by the order dated 19-10-2010 of the Ministry of labour & Employment, New Delhi.

The Terms of Reference as per Schedule is as Follows :

“Whether the action of the management of General Manager, Telecom, Surat Distt., Surat and its other Officers in allegedly terminating the services of the workman Shri Ram Bishun Ram Pervase Bhagat, casual labour w.e.f. 31-10-1987 is legal, proper and justified? If not, to what relief the workman is entitled and from which date and what other directions are necessary in the matter?”

(2) In response to the notices to the party the second party workman and the first party management appeared in the case and filed respective statement of claim and written statement.

(3) The case of the second party workman as per his statement of claim at Ext. 7 is that he was, employed as a casual labour under the department of first party from 1-11-1986 and that since then the second party was doing all the duties as of a regular employee due to vacancy existing for the regular employment. The second party was being paid his salary/wages through vouchers as per his attendance in the muster roll. Further case is that though the second party was doing all the duties of a regular employee but he was removed from the work from 31-10-1987 without giving any rhyme and reason and without complying with the provision of Section 25 (F) of the I. D. Act 1947, whereas the workman had completed more than 240 days of work in each calendar year. Further case is that the management of first party adopted unfair labour practice and also adopted pick and chose policy by not

following the principle of last come first go. Further case is that the management of first party allowed to continue the work of the casual labour who were junior to him but he was removed from the work. No notice pay or in lieu of it one month pay was provided to him before taking recourse of retrenchment under Section 25 (F) of the I.D Act. Further contention is that as per judgment passed by the Hon'ble Apex Court in AIR 1987 SC 2342, it had been directed to regularize those casual labourers who had completed 360 days of works all along in a year but in order to escape from the liability of absorbing the casual labourers the management of first party was purposely directing breakage of the casual labours job so that casual labourer could not achieve the fruit as per aforesaid judgment and order of the Hon'ble Apex Court. The second party workman tried his best to convince the officers of the management of first party by meeting all of them for taking him back in the service but his all efforts went in vain. On this grounds it has been further contended that the action of the management of the first party through its officers in removing the second party workman from his work is illegal unwarranted and unjustified and is also in violation of the provision of the Section 25 (F), 25 (G), 25 (H) of the I.D Act 1947, and the action of the first party is also against principle of natural justice. Through the statement of claim the second party has claimed for the relief of declaring the action of the first party in terminating/removing the second party from 31-10-1987 is illegal, unjustified and also violative of the provision of I.D. Act. 1947. Further sought for relief of his reinstatement in the job with full back wages and also for awarding cost of Rs. 5,000/- by way of compensation against the first party and for any other relief to which the second party is found entitle.

(4) The first parties through its written statement at Ext.-10 denying all the allegation of the second party workman as per his statement of claim and pleading inter-alia that the first party is a Central Government undertaking engaged in the service of telecommunication and rendering the service throughout the nation and the first party engaged the casual/daily rated workman for the work like digging the trench for laying the cable and the said works are of temporary nature. The second party workman was not appointed as per rules. No any applications were invited by the first party. No any applications was tendered by the workman to the first party for their engagement and second party workman was not send for any medical examination as they were not engaged as a regular employees. Thus the engagement of the second party with the first party was not according to the rules of appointment. The second party was not getting any benefits apart from wages as they were engaged on daily rated by the first party on the where and when requirement basis. Further stand taken is that the second party workman did not completed 240 days of work in any calendar years, there was no work of daily rated workers so the works of

casual labour was stopped. It has been denied that the second party workman was doing all the works of a regular employees against any vacancy rather he was being paid for the days of works basis through vouchers. There was no need for giving notices under Section 25 (F) because the second party was a daily rated workman not completed 240 days work and there was no continuity in service of the second party workman rather the second party workman was called upon to do daily rated work whenever arising of temporary requirements of work and in any month the second party workman has not work for all the days rather as per requirement had worked only for 15 days in a month. The first party have not violated either the provision of Section 25 (F), 25 (G), 25 (H). The dispute raised at belated stage and so the reference is barred by delay and latches. On the above grounds it has been contended that there was no merit in the statement of claim of the second party workman and the reference is fit to be dismissed.

(5) In view of the pleadings of the parties the following issues are taken for consideration and determination in this case.

ISSUES

- (I) Whether reference is maintainable?
- (II) Whether the workman has got valid cause of action?
- (III) Whether the reference is barred by delay and latches?
- (IV) Whether the second party workman has completed 240 days of work in a calendar year during his tenure of work as a casual labourer in the department of the first party?
- (V) Whether second party workman is entitle for reinstatement with full back wages and other reliefs as prayed for?
- (VI) Whether the management of first party was justified in terminating the service of the workman Shri Ram Bishun Ram Pervase Bhagat? If not to what relief the workman is entitle to in this case?

Findings

(6) ISSUE NO. IV, V and VI

These issues are taken up together for discussion and consideration. The second party workman as also the first party management of BSNL have adduced oral evidence to support their respective case. The workman in his oral evidence at Ext. 14 during cross-examination stated that he was not given any appointment letter for the job rather he was engaged as a daily wager and also admitted that during the engagement of his work no any order for regularisation was made. He also admitted that as per

requirement of work he was called to performance. The workman in his evidence has remained firm that he completed 240 days of work in preceding calendar year, though any certificate granted by the officer of the first party has not been brought on the record to show the total days of work from his date of engagement from 1-11-1986 till before his alleged date of removal on 31-10-1987. However in order to support the period of his work and counting days of his work muster roll and vouchers were demanded from the first party for production of these documents to which the tribunal order for production. The first party came up with such explanation that as per rules and regulation the muster rolls, voucher etc. are kept preserved only for 5 years and not more and so the documents demanded from the first party by the workman which is about 20 years old is not expected to be preserved by the department also considering this aspect that the dispute was raised after 17 years at much belated stage after the so called removal from the casual work. On the other hand the management witness namely Mr. Narendra L. Chodhry AGM legal BSNL, Surat in his affidavit at Ext. 18 has stated that the workman was not engaged from 1-11-1986 and that the concerned workman has not completed 240 days of work in any calendar year. But his such evidence is not based upon any muster roll and vouchers that the concern workman has not completed 240 days of works in a calendar year. During the cross-examination the management witness admitted that he was shown the record of 10 to 12 reference cases and that he had seen the office file up to the 5 years before and that he has no memory regarding these files and the second party workman and he has not knowledge when the workman was working and for what period he was working. He admitted that he has not produced showing work and presence of second party workman Shri Ram Bishun Ram Pervase Bhagat and the record regarding his wages. From examining the oral evidence of both sides it appears that the management witness has verbally denied the claim of the workman that he completed 240 days of work in a calendar year during his tenure of work. But such denial as to the claim of the workman is not substantiated by any paper of the department. The workman discharged his initial onus that he had completed 240 days of work in preceding 12 months of the year and that he was engage for work on 1-11-1986 and worked up to 30-10-1987. Thus first party has only met the assertion of the workman by mere denial and not supported by any documentary evidence. Whereas the subsequent onus to discredit the claim of the workman that he did not completed more than 240 days of work in any calendar year had shifted upon the first party to which the first party failed to discharge. By mere such explanation that more than 5 years old records viz. muster roll and vouchers etc. are not preserved as per rules and regulation. It has been also to be borne-in-mind that the first party is not denying that the workman had not work for any period in the department rather admitting that

he workes as a casual labour but disputing that he did not completed 240 days of work. The workman had demanded production of documents of muster roll and voucher etc. for supporting his claim but the first party did not comply with only such explanation that old records are not preserved. So, in such view of the matter adverse inference has to be drawn against the first party to this extent that during the tenure of the work from 1-11-1986 to 31-10-1987 the workman Shri Ram Bishun Ram Pervase Bhagat must have completed 240 days of work in preceding 12 months since before his disengagement from the work.

(7) From the evidence discussed above it is proved that the second party workman during his tenure of work has completed 240 days of work in preceding calendar year as a casual labour/daily rated worker in the department of the first party. It is also proved that the status of the second party workman was of casual worker/daily rated worker getting employment excluding the holidays and the Sundays and getting his wages according to days of work in a month. It is also proved that the second party workman had not completed 3 years of service as a casual worker during his span period from 1-11-1986 to 30-10-1987, it is also proved no temporary status was granted to the workman by any order of the department of the first party. So, from the evidence the status of the second party workman is only established as a casual labourer/daily rated worker who completed 240 days of work in a calendar year. So, considering such position it was the duty of the management of the first party intending to retrench the second party workman for giving retrenchment notice by complying with provision of section 25 (F) of I.D. Act by giving one month notice or to pay one month pay in lieu of notice. Certainly the first party has not complied with the provision and thus has violated the provision of the section 25 (F) of the I.D. Act. Even it is proved that the first party had violated the provision of section 25 (F) I.D. Act. It does not mean Ipso facto that the second party workman will be entitled for his reinstatement as a casual labour with back wages or part of back wages. Because of its admitted position that the second party workman was working in temporary capacity as a daily rated worker on casual basis as per requirement of the department of the first party and that the second party workman had not been granted status of temporary staff to the department of the first party.

(8) The Learned Counsel for the second party argued that since the second party workman had completed 240 days of the work in a calendar year and since the first party has violated the provision of the section 25 (F) in not giving retrenchment notice or notice pay so, the workman is entitled for his reinstatement to the works of casual worker with full back wages from the date of his allege removal from 31-10-1987 till his reinstatement. In support of his such argument several case laws have been cited which are reported in M.C.D. V/s. Pravin Kumar Jain 1958 (2) LLJ

page 674, State of UP V/s. Rajendra Singh Butola and another 2000(84) FLR page 869, Sharmishtha Dube V/s. City Board Itava 1991 (1) S CALE page 655, Narottam Chopra V/s. Labour Court 1989 Suppl. (2) Supreme Court Cases page 97, Vikramaditya Pande V/s. Industrial Tribunal 2001(1) LLJ page 701, Manorama V/s State of Bihar 1995 Supreme Court Cases (L & S 193), Mohanbhai Ramjibhai V/s. Surendranagar Dist. Panchayat 2005 (3) LLJ page 1070, Haryana Roadways V/s. Rudhansingh 2005 LLJ 2003(3) page 4, State of Punjab V/s. Babitakumari 2006 SCC (L & S) 396, S.M. Nilangakar V/s Telecom Department 2003 (3) SCALC page 533, Surat Mahila Nagrik Bank V/s. Mamtaben Mahendrabhai Joshi 2001 (1) LLR page 505, Executive Engineer CPWT Indore V/s. Madhukar Pursottam 2002 SCC L & S 1087, Kolkatta Telephone V/s. Rintu Bagji 2001 (1) LLJ page 951, Ramesh Kumar V/s. State of Haryana 2010 (1) SCC 543, Ritu Marbles V/s. Prabhakant Shukla 2010 (2) SCC 17 and Director Fisheries Terminal Division V/s B.M. Chavda 2010 (1) SC 731. The Learned Counsel for the second party has also filed same copies of award delivered by the Industrial Tribunal, Labour Courts to support that on violation of the provision of section 25 (F) by the management and the workman has completed 240 days of work, the workman has been found entitled for reinstatement with back wages.

(9) On the other hand Mr, N.K. Trivedi, the Learned Counsel appearing for the first party has relied upon authority in support of his such arguments that the second party workman is not entitled for his reinstatement with back wages because he was not regularly appointed, no appointment letter was issued, no temporary status was granted, rather the second party workman was working merely as a casual worker/daily rated worker on purely temporary basis and was only called for work in the event of requirement. He has relied upon the case law of Secretary, State of Karnataka and others V/s. Umadevi and others 2006 Supreme Court Cases (L & S) 753, BSNL V/s. Tejasingh Civil Appeal No., 292/2009 Supreme Court, Gangadhar Pillai V/s. Siemens Ltd. 2007 LAB IC 590, State of Maharashtra V/s. Datatre Digambar Birajdar 2009 LLR 1132 Supreme Court, Kendriya Vidyalay Sangathan and another V/s. S.C. Sharma 2005 LLR Supreme Court Cases. The Learned Counsel for the first party has also relied upon a Division Bench case laws of the Hon'ble Supreme Court in the case of Senior Superintendent Telegraph (Traffic) Bhopal V/s. Santosh Kumar Seal (2010 GLHEL SC) 48285 - Equivalent Citation 2010 JX (SC 219). It has been held the case law of Gangadhar Pillai V/s. Siemens Ltd. 2007 LAB IC 590 SC. "In the case an employee has been engaged as a casual or temporary employee on that he had been employed for a number of years, the same by itself may not be the conclusion that such appointment had been made with the object of depriving him of the status and privilege of the permanent employee". "However, it is not the law that on completion of 240 days or continuous service in a

year, concern employee becomes entitled for regularisation of his service and/or permanent status. Under the Industrial Dispute Act a concept of 240 days was introduced as to so fasten statutory liability upon employer to pay compensation to be computed in the manner as specified in section 25 (F) of the ID Act, 1947, before he retrenched from service and not for any other purpose. In the event a violation of the said provision takes place, the termination of service of the employee may be found to be illegal but only on that account, his service cannot be directed to be regularised...." In the case Law of Senior Superintendent Telegraph (Traffic) Bhopal V/s. Santosh Kumar Seal (2010 GLHEL SC) 48285 their Lordship of the Hon'ble Apex court have examined on the question whether the relief of reinstatement and back wages granted to respondent No. 1 to 14 is justified. In the given case law the facts was that the workman had worked for more than 240 days in a year for merely 3 years and that their service were retrenched by an order dated February 10, 1987 without following Mandatory provision of section 25 (F) of the ID Act, 1947, the Tribunal by its award directed the appellant to reinstate the workman and pay them back wages from date of termination until date of reinstatement within 3 months of the publication of the award and upon appellant failure to comply with the award within stipulated period, it was directed that interest @ 8% per annum shall be payable. The appellant (management) challenged the said order before the High Court by filing writ petition it was dismissed. Then the appellant filed the present appeal before the Hon'ble Supreme Court which was decided by the judgment by April 26, 2010. After examining all this aspects it has been held vide para 6 "in the last few years it has been consistently held by this court that the relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in case of such nature may be appropriate". It has been held at para 7 in the case Jagbir Singh Haryana State Agriculture Marketing Board and another (2009 15 SCC) 327. "...The award of reinstatement with full back wages in a case whether the workman has completed 240 days of work in a year preceding date of termination particularly, daily wagers has not been found to be proper by this court and instead compensation has been awarded. This court has distinguished between the daily wagers who does not hold post and permanent employee". It has been held by their Lordship at para 8 of the judgment. "In view of the aforesaid legal position and the fact that the workman were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice. In our considered view the compensation of Rs. 40,000 to each of the workman (respondent No. 2 to 14) shall meets the ends of justice". The aforesaid

case law reported in 2010 GLHEL SC 48285 will certainly prevail upon the previous judgment of the Apex Court and also the High Court on the points that in case of violation of section 25 (F) of the ID Act, 1947 by the employer the remedy of the workman will not be for his reinstatement with back wages rather a lumpsum of compensation according to facts of the case may be awarded. So, in view of the aforesaid case law, the case law relied upon by Mr. R.C. Pathak Learned Advocate for the second party are not applicable in the instant case.

(10) In the case in hands the status of the second party workman is of a temporary casual worker get daily rated wages and he worked as a casual worker during the period from November, 1986 to October, 1987. Though the workman completed 240. days of work but in view of the aforesaid case law of the Hon'ble Apex Court the case of Senior Superintendent Telegraph Traffic Bhopal V/s Santosh Kumar Seal (supra) the second party workman is not entitled for his reinstatement and back wages as argued by Shri R.C. Pathak, Learned Advocate for the second party workman. But since the action of the first party management in terminating/removing by an oral order the service of the workman Shri Ram Bishun Ram Pervase Bhagat is held not justified and legal because of non compliance of provision of section 25 (F) of the ID Act, 1947, so second party workman is found entitled for a lumpsum compensation. In this case considering tenure or work during intervening period of about 2 years in the department of management of first party as a daily rated worker, an amount of compensation of Rs. 10,000 will meet ends of justice in this case. Issue Nos. IV, V, VI are accordingly answered as per above.

(11) ISSUE No. III

Though there is a delay caused in referring this dispute for adjudication considering that the workman was removed from casual works from 31-10-1987, but such delay cannot be said to be latches on part of the second party workman because it is the case of the second party workman, that he approached the officers of the first party for taking him in job. More so, delay was caused in referring the dispute by the appropriate government after direction of the Hon'ble High Court of Gujarat in its order of writ petition No. 4556/2001. It is also incorporated in the order of the appropriate government referring the dispute. So, this issue is, therefore answered in negative.

(12) ISSUE NO. I & II

The workman has got valid cause of action and the reference is maintainable.

This reference is allowed in part. The first party is directed to pay Rs. 10,000 to the workman Shri Ram Bishun Ram Pervase Bhagat by way of compensation within 3 months of this award. Failing which the amount of compensation will carry interest @ 9% per annum.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 23 सितम्बर, 2011

का.आ. 2931.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संख्या सीजीआईटीए-1387/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-9-2011 को प्राप्त हुआ था।

[सं. एल-40012/217/2000-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 23rd September, 2011

S.O. 2931.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA-1387/2004) of the Central Government Industrial Tribunal-Cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 23-09-2011.

[No. L-40012/217/2000-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Binay Kumar Sinha, Presiding Officer
CGIT-cum Labour Court,
Ahmedabad, Dated 29-8-2011

Reference : GCITA of 1387 of 2004 New

Reference : ITC. 13/2002 (Old)

- (1) The General Manager,
Surat Telecom Distt., BSNL,
Narayan Chambers, Varcha Road,
Khand Bazar, Surat-395003.
- (2) Sub Divisional Officer (T)
Valsad, BSNL,
C/o. GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat-395003.
- (3) SDE (T), (Bulsar), BSNL,
C/o. GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.
- (4) A.E. (Phones Ext.)S-II,
BSNL, C/o. GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.

..... First Party

And their workman

Shri Shivperson Pal Nandlal Pal,
Krishna Kunj Society, Dindholi three Road,
Post-Godadara, Tal.-Chorasi,
Dist-Surat C/o. Secretary,
Association of Railway and Post,
Employees, 15, Shashi Apartment,
Opposite Aunjali Cinema, Vasna Road,
Ahmedabad (Gujarat)-380007 Second Party

For the first party : Shri N.K. Trivedi, Advocate

For the second party workman: Shri R.C. Pathak, Advocate

AWARD

A dispute arose between the employer in relation to Management of General Manager Telecom, Surat and their workman Shri Shivperson Pal Nandlal Pal and on failure of efforts of conciliation, the conciliation officer sent failure report to the appropriate authority which followed by sending this reference for adjudication by order of the appropriate Government, the Government of India, Ministry of Labour & Employment/Shram Shakti Bhavan, Rafi Marg New Delhi-110001, by its Order No. L- 40012/217/2000-IR (DU) dated 6-3-2002, in exercise of power conferred by clause (d) of sub section (1) of section 10 of the Industrial Dispute Act 1947, the terms of reference was sent for adjudication by the Industrial Tribunal, Ahmedabad. Subsequently by modified order dated 1-05-2002 the proceedings in relation to the aforesaid dispute pending before the Industrial Tribunal-cum-Labour Court, Ahmedabad was withdrawn and transferred for adjudication to the Presiding Officer, Industrial Tribunal-cum-Labour Court, Surat. Lastly the record was transferred to this Tribunal by the order dated 19-10-2010 of the Ministry of Labour & Employment, New Delhi.

The Terms of Reference as per Schedule is as Follows

“Whether the action of the management of General Manager, Telecom, Surat Distt., Surat and its other Officers in allegedly terminating the services of the workman Shri Shivperson Pal Nandlal Pal, casual labour w.e.f. 31-10-1987 is legal, proper and justified? If not, to what relief the workman is entitled and from which date and what other directions are necessary in the matter?”

- (2) In response to the notices to the party the second party workman and the first party management appeared in the case and filed respective statement of claim and written statement.
- (3) The case of the second party workman as per his statement of claim at Ext. 7 is that he was employed as a casual labour under the department of first party from 1-11-1986 and that since then the second party was doing all the duties as of a regular employee due to vacancy existing for the regular employment. The second party was being paid his salary/wages

through vouchers as per his attendance in the muster roll. Further case is that though the second party was doing all the duties of a regular employee but he was removed from the work from 31-10-1987 without giving any rhyme and reason and without complying with the provision of section 25 (F) of the ID Act 1947, whereas the workman had completed more than 240 days of work in each calendar year. Further case is that the management of first party adopted unfair labour practice and also adopted pick and chose policy by not following the principle of last come first go. Further case is that the management of first party allowed to continue the work of the casual labour who were junior to him but he was removed from the work. No notice pay or in lieu of it one month pay was provided to him before taking recourse of retrenchment under section 25 (F) of the ID Act. Further contention is that as per judgment passed by the Hon'ble Apex Court in AIR 1987 . SC 2342, it had been directed to regularize those casual labourers who had completed 360 days of works all along in a year but in order to escape from the liability of absorbing the casual labourers the management of first party was purposely directing breakage of the casual labour's job so that casual labourer could not achieve the fruit as per aforesaid judgment and order of the Hon'ble Apex Court. The second party workman tried his best to convince the officers of the management of first party by meeting all of them for taking him back in the service but his all efforts went in vain. On this grounds it has been further contended that the action of the management of the first party through its officers in removing the second party workman from his work is illegal unwarranted and unjustified and is also in violation of the provision of the Section 25 (F), 25 (G), 25 (H) of the ID Act 1947, and the action of the first party is also against principle of natural justice. Through the statement of claim the second party has claimed for the relief of declaring the action of the first party in terminating/removing the second party from 31-10-1987 is illegal, unjustified and also violative of the provision of ID Act 1947. Further sought for relief of his reinstatement in the job with full backwages and also for awarding cost of Rs. 5,000 by way of compensation against the first party and for any other relief to which the second party is found entitle.

- (4) The first parties through its written statement at Ext. 10 denying all the allegation of the second party workman as per his statement of claim and pleading inter-alia that the first party is a Central Government undertaking engaged in the service of telecommunication and rendering the service through out the nation and the first party engaged the casual/ daily rated workman for the work like digging the

strench for laying the cable and the said works are of temporary nature. The second party workman was not appointed as per rules. No any applications were invited by the first party. No any applications was tendered by the workman to the first party for their engagement and second party workman was not send for any medical examination as they were not engaged as a regular employees. Thus the engagement of the second party with the first party was not according to the rules of appointment. The second party was not getting any benefits apart from wages as they were engaged on daily rated by the first party on the where and when requirement basis. Further stand taken is that the second party workman did not completed 240 days of work in any calendar years, there was no work of daily rated workers so the works of casual labour was stopped. It has been denied that the second party workman was doing all the works of a regular employees against any vacancy rather he was being paid for the days of works basis through vouchers. There was no need for giving notices under section 25 (F) because the second party was a daily rated workman not completed 240 days work and there was no continuity in service of the second party workman rather the second party workman was called upon to do daily rated work whenever arising of temporary requirements of work and in any month the second party workman has not work for all the days rather as per requirement had worked only for 15 days in a month. The first party have not violated either the provision of Section 25 (F), 25 (G), 25 (H). The dispute raised at belated stage and so the reference is barred by delay and latches. On the above grounds it has been contended that there was no merit in the statement of claim of the second party workman and the reference is fit to be dismissed.

- (5) In view of the pleadings of the parties the following issues are taken for consideration and determination in this case.

ISSUES

- (I) Whether reference is maintainable?
- (II) Whether the workman has got valid cause of action?
- (III) Whether the reference is barred by delay and latches?
- (IV) Whether the second party workman has completed 240 days of work in a calendar year during his tenure of work as a casual labourer in the department of the first party?
- (V) Whether second party workman is entitle for reinstatement with full back wages and other reliefs as prayed for?
- (VI) Whether the management of first party was justified in terminating the service of the workman Shri

Shivperson Pal Nandlal Pal? If not to what relief the workman is entitle to in this case?

Findings

(6) ISSUE NO. IV, V and VI

These issues are taken up together for discussion and consideration. The second party workman as also the first party management of BSNL have adduced oral evidence to support their respective case. The workman in his oral evidence at Ext. 15 during cross-examination stated that he was not given any appointment letter for the job rather he was engaged as a daily wagger and also admitted that during the engagement of his work no any order for regularisation was made. He also admitted that as per requirement of work he was called to performance. The workman in his evidence has remained firm that he completed 240 days of work in preceding calendar year, though any certificate granted by the officer of the first party has not been brought on the record to show the total days of work from his date of engagement from 01-11-1986 till before his alleged date of removal on 31-10-1987. However in order to support the period of his work and counting days of his work muster roll and vouchers were demanded from the first part for production of these documents to which the tribunal order for production. The first party came up with such explanation that as per rules and regulation the muster rolls, voucher etc. are kept preserved only for 5 years and not more and so the documents demanded from the first party by the workman which is about 20 years old is not expected to be preserved by the department also considering this aspect that the dispute was raised after 17 years at much belated stage after the so called removal from the casual work. On the other hand the management witness namely Mr. Narendra L. Chodhry AGM legal BSNL, Surat in his affidavit at Ext. 19 has stated that the workman was not engaged from 1-11-1986 and that the concerned workman has not completed 240 days of work in any calendar year. But his such evidence is not based upon any muster roll and vouchers that the concern workman has not completed 240 days of works in a calendar year. During the cross-examination the management witness admitted that he was shown the record of 10 to 12 reference cases and that he had seen the office file up to the 5 years before and that he has no memory regarding these files and the second party workman and he has not knowledge when the workman was working and for what period he was working. He admitted that he has not produced showing work and presence of second party workman Shri Shivperson Pal Nandlal Pal and the record regarding his wages. From examining the oral evidence of both sides it appears that the management witness has verbally denied the claim of the workman that he completed 240 days of work in a calendar year during his tenure of work. But such denial as to the claim of the workman is not substantiated by any

paper of the department. The workman discharged his initial onus that he had completed 240 days of work in preceding 12 months of the year and that he was engaged for work on 1-11-1986 and worked up to 30-10-1987. Thus first party has only met the assertion of the workman by mere denial and not supported by any documentary evidence. Whereas the subsequent onus to discredit the claim of the workman that he did not completed more than 240 days of work in any calendar year had shifted upon the first party to which the first party failed to discharge. By mere such explanation that more than 5 years old records viz muster roll and vouchers etc. are not preserved as per rules and regulation. It has been also to be borne-in mind that the first party is not denying that the workman had not work for any period in the department rather admitting that he workes as a casual labour but disputing that he did not completed 240 days of work. The workman had demanded production of documents of muster roll and voucher etc. for supporting his claim but the first party did not comply with only such explanation that old records are not preserved. So, in such view of the matter adverse inference has to be drawn against the first party to this extent that during the tenure of the work from 1-11-1986 to 31-10-1987 the workman Shri Shivperson Pal Nandlal Pal must have completed 240 days of work in preceding 12 months since before his disengagement from the work.

(7) From the evidence discussed above it is proved that the second party workman during his tenure of work has completed 240 days of work in preceding calendar year as a casual labour/daily rated worker in the department of the first party. It is also proved that the status of the second party workman was of casual worker/daily rated worker getting employment excluding the holidays and the Sundays and getting his wages according to days of work in a month. It is also proved that the second party workman had not completed 3 years of service as a casual worker during his span period from 1-11-1986 to 30-10-1987, it is also proved no temporary status was granted to the workman by any order of the department or the first party. So, from the evidence the status of the second party workman is only established as a casual labourer/daily rated worker who completed 240 days of work in a calendar year. So, considering such position it was the duty of the management of the first party intending to retrench the second party workman for giving retrenchment notice by complying with provision of Section 25 (F) of I.D Act by giving one month notice or to pay one month pay in lieu of notice. Certainly the first party has not complied with the provision and thus has violated the provision of the Section 25 (F) of the ID Act. Even it is proved that the first party had violated the provision of section 25 (F) I.D Act. It does not mean of the ipso facto that the second party workman will be entitled for his reinstatement as a casual labour with back wages or part of back wages. Because of its admitted position

that the second party workman was working in temporary capacity as a daily rated worker on casual basis as per requirement of the department of the first party and that the second party workman had not been granted status of temporary staff to the department of the first party.

(8) The Learned Counsel for the second party argued that since the second party workman had completed 240 days of the work in a calendar year and since the first party has violated the provision of the section 25 (F) in not giving retrenchment notice or notice pay so, the workman is entitled for his reinstatement to the works of casual worker with full back wages from the date of his alleged removal from 31-10-1987 till his reinstatement. In support of his such argument several case laws have been cited which are reported in M.C.D V/s Pravin Kumar Jain 1958 (2) LLJ page 674, State of UP V/s Rajendra Singh Butola and another 2000(84) FLR page 869, Sharmishtha Dube V/s City Board Itava 1991 (1) SCALE page 655, Narottam Chopra V/s Labour Court 1989 SUPPL (2) Supreme Court Cases page 97, Vikramaditya Pande V/s Industrial Tribunal 2001(1) LLJ page 701, Manorama V/s State of Bihar 1995 Supreme Court Cases (L & S 193), Mohanbhai Ramjibhai V/s Surendranagar Dist. Panchayat 2005 (3) LLJ page 1070, Harayana Roadways V/s Rudhansingh 2005 LLJ 2003(3) page 4, State of Punjab V/s Babitakumari 2006 SCC (L & S) 396, S.M. Nilangakar V/s Telecom Department 2003 (3) SCALC page 533, Surat Mahila Nagrik Bank V/s Mamtaben Mahendrabhai Joshi 2001 (1) LLR page 505, Executive Engineer CPWT Indor V/s Madhukar Pursottam 2002 SCC L & S 1087, Kolkatta Telephone V/s Rintu Bagji 2001 (1) LLJ page 951, Ramesh Kumar V/s State of Harayana 2010 (1) SCC 543, Ritu Marbles V/s Prabhakant Shukla 2010 (2) SCC 17 and Director Fisheries Terminal Division V/s B.M. Chavda 2010 (1) SC 731. The learned Counsel for the second party has also filed same copies of award delivered by the Industrial Tribunal, Labour Courts to support that on violation of the provision of section 25 (F) by the management and the workman has completed 240 days of work, the workman has been found entitled for reinstatement with back wages.

(9) On the other hand Mr. N.K. Trivedi, the Learned Counsel appearing for the first party has relied upon authority in support of his such arguments that the second party workman is not entitled for his reinstatement with back wages because he was not regularly appointed, no appointment letter was issued, no temporary status was granted, rather the second party workman was working merely as a casual worker daily rated worker on purely temporary basis and was only called for work in the event of requirement. He has relied upon the case law of Secretary, State of Karnataka and others V/s Umadevi and others 2006 Supreme Court Cases (L & S) 753, BSNL V/s Tejas Singh Civil Appeal No. 292/2009 Supreme Court, Gangadhar Pillai V/s Siemens Ltd. 2007 LAB IC 590, State of Maharashtra V/s Datatre Digambar Birajdar 2009 LLR 1132 Supreme

Court, Kendriya Vidyalay Sangathan and another V/s S.C. Sharma 2005 LLR Supreme Court Cases. The Learned Counsel for the first party has also relied upon a Division Bench case laws of the Hon'ble Supreme Court in the case of Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal 2010 GLHEL -SC 48285- Equivalent Citation 2010 JX (SC 219). It has been held the case law of Gangadhar Pillei V/s Siemens Ltd. 2007 LAB IC 590 SC "In the case an employee has been engaged as a casual or temporary employee on that he had been employed for a number of years, the same by itself may not be the conclusion that such appointment had been made with the object of depriving him of the status and privilege of the permanent employee. "However it is not the law that on completion of 240 days of continuous service in a year, concern employee becomes entitled for regularisation of his service and/or permanent status. Under the Industrial Dispute Act a concept of 240 days was introduced as to so fasten statutory liability upon employer to pay compensation to be computed in the manner as specified in section 25 (F) of the ID Act 1947, before he retrenched from service and not for any other purpose. In the event a violation of the said provision takes place, the termination of service of the employee may be found to be illegal but only on that account, his service cannot be directed to be regularised..." In the case law of Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal (2010 GLHEL SC) 48285 their Lordship of the Hon'ble Apex Court have examined on the question whether the relief of reinstatement and back wages granted to respondent No.1 to 14 is justified. In the given case law the facts was that the workman had worked for more than 240 days in a year for merely 3 years and that their service were retrenched by an order dated February 10, 1987 without following Mandatory provision of Section 25 (F) of the ID Act 1947, the Tribunal by its award directed the appellant to reinstate the workman and pay them back wages from date of termination until date of reinstatement within 3 month of the publication of the award and upon appellant failure to comply with the award within stipulated period, it was directed that interest @ 8% per annum shall be payable. The appellant (management) challenged the said order before the High Court by filing writ petition it was dismissed. Then the appellant filed the present appeal before the Hon'ble Supreme Court which was decided by the judgment by April 26, 2010. After examining all this aspects it has been held vide para 6 "in the last few years it has been consistently held by this court that the relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or in contravention of the prescribed procedure and that monitory compensation in lieu of reinstatement and back wages in case of such nature may be appropriate". It has been held at para 7 in the case Jagbirsingh Haryana State Agriculture marketing board and another (2009) 15 SCC 327 - "... The award of reinstatement with full back wages

in a case whether the workman has completed 240 days of work in a year preceding date of termination particularly, daily wagers has not been found to be proper by this court and instead compensation has been awarded. This court has distinguished between the daily wagers who does not hold post and permanent employee". It has been held by their Lordship at para 8 of the judgment. "In view of the aforesaid legal position and the fact that the workman were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monitory compensation would subserve the ends of justice. In our considered view the compensation of Rs. 40,000 to each of the workman (respondent No.2 to 14) shall meets the ends of justice". The aforesaid case law reported in 2010 GLHEL SC 48285 will certainly prevail upon the previous judgment of the Apex Court and also the High Court on the points that in case of violation of section 25 (F) of the ID Act 1947 by the employer the remedy of the workman will not be for his reinstatement with back wages rather a lumpsum of compensation according to facts of the case may be awarded. So, in view of the aforesaid case law, the case law relied upon by Mr. R.C. Pathak Learned Advocate for the second party are not applicable in the instant case.

(10) In the case in hands the status of the second party workman is of a temporary casual worker get daily rated wages and he worked as a casual worker during the period from November 1986 to October 1987. Though the workman completed 240 days of work but in view of the aforesaid case law of the Hon'ble Apex Court the case of Senior Superintendent Telegraph Traffic Bhopal V/s Santosh Kumar Seal (supra) the second party workman is not entitled for his reinstatement and back wages as argued by Shri R.C. Pathak, Learned Advocate for the second party workman. But since the action of the first party management in terminating/removing by an oral order the service of the workman Shri Shivperson Pal Nandlal Pal is held not justified and legal because of non compliance of provision of section 25 (F) of the I.D Act 1947, so second party workman is found entitled for a lumpsum compensation. In this case considering tenure or work during intervening period of about 2 years in the department of management of first party as a daily rated worker, an amount of compensation of Rs. 10,000 will meet ends of justice in this case. Issue No. IV, V, VI are accordingly answered as per above.

(11) ISSUE No. III

Though there is a delay caused in referring this dispute for adjudication considering that the workman was removed from casual works from 31-10-1987, but such delay cannot be said to be laches on part of the second party workman because it is the case of the second party workman, that he approached the officers of the first party

for taking him in job. More so, delay was caused in referring the dispute by the appropriate Government after direction of the Hon'ble High Court of Gujarat in its order of writ petition No. 4556/2001. It is also incorporated in the order of the appropriate government referring the dispute. So, this issue is, therefore answered in negative.

(12) ISSUE Nos. I and II

The workman has got valid cause of action and the reference is maintainable.

This reference is allowed in part. The first party is directed to pay Rs. 10,000 to the workman Shri Shivperson Pal Nandlal Pal by way of compensation within 3 months of this award. Failing which the amount of compensation will carry interest @ 9% per annum.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 23 सितम्बर, 2011

क्र.आ. 2932.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संख्या सीजीआईटीए-1388/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-9-2011 को प्राप्त हुआ था।

[सं.एस-40012/222/2000-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 23rd September, 2011

S.O. 2932.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA-1388/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 23-9-2011.

[No. L-40012/222/2000-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

REPORT OF THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, AHMEDABAD

Present

Binay Kumar Sinha,

Presiding Officer

CGIT-cum-Labour Court,

Ahmedabad, Dated 29-8-2011

Reference : CGITA of 1388 of 2004

New Reference : ITC 14/2002 (OLD)

- (1) The General Manager,
Surat Telecom Distt., BSNL,
Narayan Chambers, Varcha Road,
Khand Bazar, Surat-395003.
- (2) Sub Divisional Officer (T)
Valsad, BSNL,
C/o GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat-395003.
- (3) SDE (T), (Bulsar), BSNL,
C/o GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.
- (4) A.E. (Phones Ext.) S-II,
BSNL, C/o GMTD Office,
Narayan Chambers,
Varcha Road, Khand Bazar,
Surat.

..... First Party

And their workman

Shri Hargovindram Shyamlal Ram,
Astiknagar, B/h. Priyanka Town,
Post-Godadara, Tal-Chorasi,
Dist-Surat, C/o. Secretary,
Association of Railway and Post,
Employees, 15, Shashi Apartment,
Opposite Aunjali Cinema, Vasna Road,
Ahmedabad (Gujarat)- 380007

.... Second Party

For the first party : Shri N.K. Trivedi, Advocate

For the second party workman:- Shri R.C. Pathak, Advocate

AWARD

A dispute arose between the employer in relation to Management of General Manager Telecom, Surat and their workman Shri Hargovindram Shyamlal Ram and on failure of efforts of conciliation, the conciliation officer sent failure report to the appropriate authority which followed by sending this reference for adjudication by order of the appropriate Government, the Government of India, Ministry of Labour & Employment Shram Shakti Bhavan, Rafi Marg New Delhi-110001, by its order No. L- 40012/222/2000-IR (DU) dated 6-3-2002, in exercise of power conferred by clause (d) of sub-section (I) of section 10 of the Industrial Dispute Act 1947, the terms of reference was sent for adjudication by the Industrial Tribunal, Ahmedabad. Subsequently by modified order dated 2-5-2002 the proceedings in relation to the aforesaid dispute pending before the Industrial Tribunal-cum-Labour Court, Ahmedabad was withdrawn and transferred for adjudication to the Presiding Officer, Industrial Tribunal-cum-Labour Court, Surat. Lastly the record was transferred

to this Tribunal by the order dated 19-10-2010 of the Ministry of Labour and Employment, New Delhi.

The Terms of Reference as per Schedule is as Follows :

"Whether the action of the management of General Manager, Telecom, Surat Distt., Surat and its other Officers in allegedly terminating the services of the workman Shri Hargovindram Shyamlal Ram, casual labour w.e.f. 31-10-1987 is legal, proper and justified? If not, to what relief the workman is entitled and from which date and what other directions are necessary in the matter?"

(2) In response to the notices to the party the second party workman and the first party management appeared in the case and filed respective statement of claim and written statement.

(3) The case of the second party workman as per his statement of claim at Ext. 7 is that he was employed as a casual labour under the department of first party from 1-4-1986 and that since then the second party was doing all the duties as of a regular employee due to vacancy existing for the regular employment. The second party was being paid his salary/wages through vouchers as per his attendance in the muster roll. Further case is that though the second party was doing all the duties of a regular employee but he was removed from the work from 31-10-1987 without giving any rhyme and reason and without complying with the provision of section 25 (F) of the I.D. Act, 1947, whereas the workman had completed more than 240 days of work in each calendar year. Further case is that the management of first party adopted unfair labour practice and also adopted pick and chose policy by not following the principle of last come first go. Further case is that the management of first party allowed to continue the work of the casual labour who were junior to him but he was removed from the work. No notice pay or in lieu of it one month pay was provided to him before taking recourse of retrenchment under section 25 (F) of the I.D. Act. Further contention is that as per judgment passed by the Hon'ble Apex Court in AIR 1987 SC 2342, it had been directed to regularize those casual labourers who had completed 360 days of works all along in a year but in order to escape from the liability of absorbing the casual labourers the management of first party was purposely directing breakage of the casual labours job so that casual labourer could not achieve the fruit as per aforesaid judgment and order of the Hon'ble Apex Court. The second party workman tried his best to convince the officers of the management of first party by meeting all of them for taking him back in the service but his all efforts went in vain. On this grounds it has been further contended that the action of the management of the first party through its officers in removing the second party workman from his work is illegal unwarranted and unjustified and is also in violation of the provision of the section 25 (F), 25 (G), 25 (H) of the I.D.

Act, 1947, and the action of the first party is also against principle of natural justice. Through the statement of claim the second party has claimed for the relief of declaring the action of the first party in terminating/removing the second party from 31-10-1987 is illegal, unjustified and also violation of the provision of I.D. Act, 1947. Further sought for relief of his reinstatement in the job with full backwages and also for awarding cost of Rs. 5,000 by way of compensation against the first party and for any other relief to which the second party is found entitled.

(4) The first parties through its written statement at Ext. 10 denying all the allegation of the second party workman as per his statement of claim and pleading inter alia that the first party is a Central Government undertaking engaged in the service of telecommunication and rendering the service through out the nation and the first party engaged the casual/daily rated workman for the work like digging the trench for laying the cable and the said works are of temporary nature. The second party workman was not appointed as per rules. No any applications were invited by the first party. No any applications was tendered by the workman to the first party for their engagement and second party workman was not send for any medical examination as they were not engaged as a regular employees. Thus the engagement of the second party with the first party was not according to the rules of appointment. The second party was not getting any benefits apart from wages as they were engaged on daily rated by the first party on the where and when requirement basis. Further stand taken is that the second party workman did not completed 240 days of work in any calendar years, there was no work of daily rated workman so the works of casual labour was stopped. It has been denied that the second party workman was doing all the works of a regular employees against any vacancy rather he was being paid for the days of works basis through vouchers. There was no need for giving notices under section 25 (F) because the second party was a daily rated workman not completed 240 days work and there was no continuity in service of the second party workman rather the second party workman was called upon to do daily rated work whenever arising of temporary requirements of work and in any month the second party workman has not work for all the days rather as per requirement had worked only for 15 days in a month. The first party have not violated either the provision of section 25 (F), 25 (G), 25 (H). The dispute raised at belated stage and so the reference is barred by delay and laches. On the above grounds it has been contended that there was no merit in the statement of claim of the second party workman and the reference is fit to be dismissed.

(5) In view of the pleadings of the parties the following issues are taken for consideration and determination in this case.

ISSUES

- (I) Whether reference is maintainable?
- (II) Whether the workman has got valid cause of action?
- (III) Whether the reference is barred by delay and latches?
- (IV) Whether the second party workman has completed 240 days of work in a calendar year during his tenure of work as a casual labourer in the department of the first party?
- (V) Whether second party workman is entitle for reinstatement with full back wages and other reliefs as prayed for?
- (VI) Whether the management of first party was justified in terminating the service of the workman Shri Hargovindram Shyamlal Ram? If not to what relief the workman is entitle to in this case?

Findings**(6) ISSUE NO. IV, V and VI**

These issues are taken up together for discussion and consideration. The second party workman as also the first party management of BSNL have adduced oral evidence to support their respective case. The workman in his oral evidence at Ext. 14 support that he completed more than 240 days of work in calendar year besides Ext. 16 the list of document are the two certificates granted by the Assistant Engineer extantion M.D. Surat. Which is Ext. 16/1 and 16/2 it is prove that from 1-4-1986 to 31-12-1986 the workman completed 240 days of work and Ext. 16/2 further go to show that in the year for the month of June to May 1987 he worked 29 days, 28 days and 25 days respectively total of 82 days and thus he continuously worked for total period of 348 days from his date of engagement till before his alleged date of removal on 31-10-1987. However in order to support the period of his work and counting days of his work muster roll and vouchers were demanded from the first party for production of these documents to which the tribunal order for production. The first party came up with such explanation that as per rules and regulation the muster rolls, voucher etc. are kept preserved only for 5 years and not more and so the documents demanded from the first party by the workman which is about 20 years old is not expected to be preserved by the department also considering this aspect that the dispute was raised after 17 years at much belated stage after the so called removal from the casual work. On the other hand the management witness namely Mr. Narendra L. Chodhry AGM legal BSNL, Surat in his affidavit at Ext. 19 has stated that the workman was not engaged from 1-4-1986 but he was engaged from 1986 and

that the concerned workman has not completed 240 days of work in any calendar year. But his such evidence is not based upon any muster roll and vouchers that the concern workman has not completed 240 days of works in a calendar year. During the cross-examination the management witness admitted that he was shown the record of 10 to 12 reference cases and that he had seen the office file up to the 5 years before and that he has no memory regarding these files and the second party workman and he has no knowledge when the workman was working and for what period he was working. He admitted that he has not produced showing work and presence of second party workman Hargovindram Shyamlal Ram and the record regarding his wages. From examining the oral evidence of both sides it appears that the management witness has verbally denied the claim of the workman that he completed 240 days of work in a calendar year during his tenure of work. But such denial as to the claim of the workman is not substantiated by any paper of the department. The workman discharged his initial onus that he had completed 240 days of work in preceding 12 months of the year and that he was engaged for work on 1-4-1986 and worked up to 30-10-1987. Thus first party has only met the assertion of the workman by mere denial and not supported by any documentary evidence. Whereas the subsequent onus to discredit the claim of the workman that he did not completed more than 240 days of work in any calendar year had shifted upon the first party to which the first party failed to discharge. By mere such explanation that more than 5 years old records viz., muster roll and vouchers etc. are not preserved as per rules and regulation. It has been also to be borne-in-mind that the first party is not denying that the workman had not work for any period in the department rather admitting that he works as a casual labour but disputing that he did not completed 240 days of work. The workman had demanded production of documents of muster roll and voucher etc. for supporting his claim but the first party did not comply with only such explanation that old records are not preserved. So, in such view of the matter adverse inference has to be drawn against the first party to this extent that during the tenure of the work from 1-4-1986 to 31-10-1987 the workman Hargovindram Shyamlal Ram must have completed 240 days of work in preceding 12 months since before his disengagement from the work.

(7) From the evidence discussed above it is proved that the second party workman during his tenure of work has completed 240 days of work in preceding calendar year as a casual labour /daily rated worker in the department of the first party. It is also proved that the status of the second party workman was of casual worker/daily rated worker getting employment excluding the holidays and the Sundays and getting his wages according to days of work in a month. It is also proved that the second party workman had not completed 3 years of service as a casual

worker during his span period from 1-4-1986 to 31-10-1987, it is also proved no temporary status was granted to the workman by any order of the department of the first party. So, from the evidence the status of the second party workman is only established as a casual labourer/daily rated worker who completed 240 days of work in a calendar year. So, considering such position it was the duty of the management of the first party intending to retrench the second party workman for giving retrenchment notice by complying with provision of section 25 (F) of ID Act by giving one month notice or to pay one month pay in lieu of notice. Certainly the first party has not complied with the provision and thus has violated the provision of the section 25 (F) of the ID Act. Even it is proved that the first party had violated the provision of section 25 (F) ID Act. It does not mean *Ipsa facto* that the second party workman will be entitled for his reinstatement as a casual labour with back wages or part of back wages. Because of its admitted position that the second party workman was working in temporary capacity as a daily rated worker on casual basis as per requirement of the department of the first party and that the second party workman had not been granted status of temporary staff to the department of the first party.

(8) The Learned Counsel for the second party argued that since the second party workman had completed 240 days of the work in a calendar year and since the first party has violated the provision of the section 25 (F) in not giving retrenchment notice or notice pay so, the workman is entitled for his reinstatement to the works of casual worker with full back wages from the date of his allege removal from 31-10-1987 till his reinstatement. In support of his such argument several case laws have been cited which are reported in *M.C.D V/s Pravin Kumar Jain* 1958 (2) LLJ page 674, *State of UP V/s Rajendra Singh Butola* and another 2000(84) FLR page 869, *Sharmishtha Dube V/s City Board Itava* 1991 (1) SCALE page 655, *Narottam Chopra V/s Labour Court* 1989 SUPPLI. (2) Supreme Court Cases page 97, *Vikramaditya Pande V/s Industrial Tribunal* 2001(1) LLJ page 701, *Manorama V/s State of Bihar* 1995 Supreme Court Cases (L & S 193), *Mohanbhai Ramjibhai V/s Surendranagar Dist. Panchayat* 2005 (3) LLJ page 1070, *Haryana Roadways V/s Rudhansingh* 2005 LLJ 2003(3) page 4, *State of Punjab V/s Babitakumari* 2006 SCC (L & S) 396, *S.M. Nilangakar V/s Telecom Department* 2003 (3) SCALC page 533, *Surat Mahila Nagrik Bank V/s Mamtaben Mahendrabhai Joshi* 2001 (1) LLR page 505, *Executive Engineer CPWT Indor V/s Madhukar Pursottam* 2002 SCC L & S 1087, *Kolkatta Telephone V/s Rintu Bagji* 2001 (1) LLJ page 951, *Ramesh Kumar V/s State of Haryana* 2010 (1) SCC 543, *Ritu Marbles V/s Prabhakant Shukla* 2010 (2) SCC 17 and *Director Fisheries Terminal Division V/s B.M. Chavda* 2010 (1) SC 731. The Learned Counsel for the second party has also filed same copies of award delivered by the Industrial Tribunal, Labour Courts to support that

on violation of the provision of Section 25 (F) by the management and the workman has completed 240 days of work, the workman has been found entitled for reinstatement with back wages.

(9) On the other hand Mr. N.K. Trivedi, the Learned Counsel appearing for the first party has relied upon authority in support of his such arguments that the second party workman is not entitled for his reinstatement with back wages because he was not regularly appointed, no appointment letter was issued, no temporary status was granted, rather the second party workman was working merely as a casual worker/daily rated worker on purely temporary basis and was only called for work in the event of requirement. He has relied upon the case law of *Secretary, State of Karnataka and others V/s Umadevi and others* 2006 Supreme Court Cases (L & S) 753, *BSNL V/s Tejas Singh* Civil Appeal No. 292/2009 Supreme Court, *Gangadhar Pillai V/s Siemens Ltd.* 2007 LAB IC 590, *State of Maharashtra V/s Datatre Digambar Birajdar* 2009 LLR 1132 Supreme Court, *Kendriya Vidyalay Sangathan and another V/s S.C. Sharma* 2005 LLR Supreme Court Cases. The Learned Counsel for the first party has also relied upon a Division Bench case laws of the Hon'ble Supreme Court in the case of *Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal* 2010 GLHEL—SC 48285—Equivalent Citation 2010 JX (SC 219). It has been held the case law of *Gangadhar Pillai V/s Siemens Ltd.* 2007 LAB IC 590 SC “In the case an employee has been engaged as a casual or temporary employee on that he had been employed for a number of years, the same by itself may not be the conclusion that such appointment had been made with the object of depriving him of the status and privilege of the permanent employee”. “However it is not the law that on completion of 240 days of continuous service in a year, concern employee becomes entitled for regularisation of his service and/or permanent status. Under the Industrial Dispute Act a concept of 240 days was introduced as to so fasten statutory liability upon employer to pay compensation to be computed in the manner as specified in section 25 (F) of the I.D Act, 1947, before the retrenched from service and not for any other purpose. In the event a violation of the said provision takes place, the termination of service of the employee may be found to be illegal but only on that account, his service cannot be directed to be regularised ... “ In the case law of *Senior Superintendent Telegraph (Traffic) Bhopal V/s Santosh Kumar Seal* (2010 GLHEL SC) 48285 their Lordship of the Hon'ble Apex Court have examined on the question whether the relief of reinstatement and back wages granted to respondent No. 1 to 14 is justified. In the given case law the facts was that the workman had worked for more than 240 days in a year for merely 3 years and that their service were retrenched by an order dated February, 10, 1987 without following Mandatory provision of Section 25 (F) of the I.D Act. 1947, the Tribunal by its award directed the appellant to

reinstate the workman and pay them back wages from date of termination until date of reinstatement within 3 months of the publication of the award and upon appellant failure to comply with the award within stipulated period, it was directed that interest @ 8% per annum shall be payable. The appellant (management) challenged the said order before the High Court by filing writ petition it was dismissed. Then the appellant filed the present appeal before the Hon'ble Supreme Court which was decided by the judgment by April, 26, 2010. After examining all this aspects it has been held vide para 6 "in the last few years it has been consistently held by this court that the relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in case of such nature may be appropriate". It has been held at para 7 in the case Jagbir Singh Hariyana State Agriculture Marketing Board and another (2009 15 SCC) 327—... "The award of reinstatement with full back wages in a case whether the workman has completed 240 days of work in a year preceding date of termination particularly, daily wages has not been found to be proper by this court and instead compensation has been awarded. This court has distinguished between the daily wagers who does not hold post and permanent employee". It has been held by their Lordship at para 8 of the judgment. "In view of the aforesaid legal position and the fact that the workman were engaged as daily wagers about 25 years back and they worked hardly for 2 or 3 years, relief of reinstatement and back wages to them cannot be said to be justified and instead monetary compensation would subserve the ends of justice. In our considered view the compensation of Rs. 40,000 to each of the workman (Respondent No.2 to 14) shall meet the ends of justice". The aforesaid case law reported in 2010 GLHEL SC 48285 will certainly prevail upon the previous judgment of the Apex Court and also the High Court on the points that in case of violation of section 25 (F) of the I.D Act, 1947 by the employer the remedy of the workman will not be for his reinstatement with back wages rather a lumpsum of compensation according to facts of the case may be awarded. So, in view the aforesaid case law, the case law relied upon by Mr. R.C. Pathak Learned Advocate for the second party are not applicable in the instant case.

(10) In the case in hands the status of the second party workman is of a temporary casual worker get daily rated wages and he worked as a casual worker during the period from April 1986 to October 1987. Though the workman completed 240 days of work but in view of the aforesaid case law of the Hon'ble Apex Court the case of Senior Superintendent Telegraph Traffic Bhopal V/s Santosh Kumar Seal (supra) the second party workman is not entitled for his reinstatement and back wages as argued by Shri R.C. Pathak, Learned Advocate for the second party

workman. But since the action of the first party management in terminating/removing by an oral order the service of the workman Hargovindram Shyamlal Ram is held not justified and legal because of non compliance of provision of Section 25 (F) of the ID Act, 1947, so second party workman is found entitled for a lumpsum compensation. In this case considering tenure or work during intervening period of about 2 years in the department of management of first party as a daily rated worker, an amount of compensation of Rs. 10,000 will meet ends of justice in this case. Issue No. IV, V, VI are accordingly answered as per above.

(11) ISSUE No. III

Though there is a delay caused in referring this dispute for adjudication considering that the workman was removed from casual works from 31-5-1987, but such delay cannot be said to be latches on part of the second party workman because it is the case of the second party workman, that he approached the officers of the first party for taking him in job. More so, delay was caused in referring the dispute by the appropriate Government after direction of the Hon'ble High Court of Gujarat in its order of writ Petition No. 4556/2001. It is also incorporated in the order of the appropriate Government referring the dispute. So, this issue is therefore answered in negative.

(12) ISSUE No. I and II

The workman has got valid cause of action and the reference is maintainable.

This reference is allowed in part. The first party is directed to pay Rs. 10,000 to the workman Hargovindram Shyamlal Ram by way of compensation within 3 months of this award. Failing which the amount of compensation will carry interest @ 9% per annum.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 27 सितम्बर, 2011

का.आ. 2933.—केन्द्र सरकार, खान अधिनियम, 1952 (1952 का 35) की धारा 5 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा निम्नलिखित अधिकारियों को खान निरीक्षक, खानों के मुख्य-निरीक्षक के सहायक के रूप में अगले आदेशों तक नियुक्त करता है :—

1. श्री अजय सिंह, उप निदेशक, खान सुरक्षा (वैद्युत)
2. श्री थाम्मीसेट्टी श्रीनिवास, उप निदेशक, खान सुरक्षा (वैद्युत)
3. श्री परमानन्द कुमार सिंह, उप निदेशक, खान सुरक्षा (यांत्रिकी)

[फा. सं. एस-29025/1/2008-आई एस एच-II]

वन्दना शर्मा, निदेशक

New Delhi, the 27th September, 2011

S.O. 2933.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints the following officers as Inspector of Mines, subordinate to the Chief Inspector of Mines, until further orders:—

1. Shri Ajay Singh, Deputy Director of Mines Safety (Electrical).
2. Shri Thammisetty Srinivas, Deputy Director of Mines Safety (Electrical).
3. Shri Parmanand Kumar Singh, Deputy Director of Mines Safety (Mechanical).

[F. No. S-29025/1/2008-ISH-II]

VANDANA SHARMA, Director

नई दिल्ली, 3 अक्टूबर, 2011

का.आ. 2934.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1-11-2011 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

केन्द्र निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गांव

पागलपट्टी 1. पागलपट्टी
धर्मपुरी जिला

[सं. एस-38013/67/2011-एस एस-I]

नरेश जायसवाल, अवर सचिव

New Delhi, the 3rd October, 2011

S.O. 2934.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st November, 2011 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamilnadu namely :—

Centre Area Comprising the Revenue Villages of

Pagalpatty 1. Pagalpatty
Dharmapuri
District

[No. S-38013/67/2011-SS-I]

NARESH JAISWAL, Under Secy.

नई दिल्ली, 5 अक्टूबर, 2011

का.आ. 2935.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1-11-2011 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :

केन्द्र निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गांव

पिराटियूर 1. पिराटियूर
श्रीरंगम तालुक
तिरुच्चू जिला

[सं. एस-38013/66/2011-एस एस-I]

नरेश जायसवाल, अवर सचिव

New Delhi, the 5th October, 2011

S.O. 2935.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st November, 2011 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamilnadu namely :—

Centre Area Comprising the Revenue Villages of

Piratiyur 1. Piratiyur
Srirangam Taluk
Trichy District

[No. S-38013/66/2011-SS-I]

NARESH JAISWAL, Under Secy.